

PART 1942 - ASSOCIATIONS

SUBPART A - COMMUNITY FACILITY LOANS

- I. Purpose - This instruction is issued pursuant to RD Instruction 1942-A, paragraph 1942.16(a), and supplements various paragraphs of RD Instruction 1942-A as stated below. The purpose is to provide for uniform and orderly processing and closing of Essential Community Facilities projects.

II. Paragraph 1942.2 - Processing Applications

A. Paragraph 1942.2(a)(1)(v)

The referenced paragraph states "the District Director will advise applicants on what documents are necessary to make an eligibility determination." In order to be consistent throughout the State, Exhibit A (Required Information for Essential Community Facilities Preapplications) will be used to request documentation. When submitting a copy of the organizational documents, an officer of the applicant entity must certify that the documents are a true and complete set of all documents creating the applicant entity. The following will assist you in determining what documents each type of entity should have:

1. Corporations, Stock, and Non-Stock:

- a. Articles of Incorporation
- b. Certificate of Incorporation
- c. Corporate By-laws
- d. Recent Certificate of Good Standing
- e. Articles and Certificates of Merger, Amendment, Correction, or Restatement (if applicable)

2. Cities, Counties, and Towns:

- a. Charter
- b. All relevant Acts of Assembly
- c. All relevant court orders (if created judicially)

3. Sanitary Districts:

- a. All court orders creating, enlarging, or merging the Sanitary District

4. Planning District Commissions/Community Services Boards (public bodies):

- a. Charter Agreement entered into by the various governing bodies within the geographic boundary of the planning district or services board who have organized same

5. Industrial Development Authorities:

- a. City or County Ordinance Creating Authority

6. Water and Sewer Authorities:

- a. Ordinance(s), Resolution(s), or Agreement(s) creating Authority
- b. Articles of Incorporation
- c. Certificate of Incorporation
- d. By-laws
- e. All Ordinance(s), Resolution(s), or Agreement(s) agreeing to let a political subdivision join or leave the Authority (if applicable)
- f. Certificates of Joinder or Withdrawal (if applicable)

7. All amendments to any documents referred to in paragraphs II, A, 1-6.

B. Paragraph 1942.2(b)

Any environmental mitigation requirements determined necessary must be included in the draft Letter of Conditions (LOC) submitted to the Program Director.

C. Paragraph 1942.2(c)(3)

This paragraph is supplemented to provide a uniform Checklist for all Essential Community Facilities loan and grant processing. Virginia Instruction 1942-A, Guide 3, will be used as the official Virginia Checklist. The checklist will be filed in Position 1 in the Area Office file and will be kept current by Area Office personnel as processing advances.

III. Paragraph 1942.4 - Borrower Contracts

Agreements between borrowers and third parties such as, but not limited to, contracts for professional and technical services and contracts for the purchase of water or treatment of waste, which will be handled as follows. The Rural Development Manager will analyze the document and forward it along with written recommendations concerning its appropriateness and acceptability to the Program Director for concurrence. If the document is clearly unacceptable, it should be revised prior to submission for concurrence.

IV. Paragraph 1942.5 - Application Review and Approval

The Rural Development Manager will use Exhibit B to develop a draft letter of conditions for an essential community facility project. The Exhibit must be reproduced and used as is. Any changes, additions, or deletions must be made by hand and be legible in order to facilitate the Program Director's review. This is only a guide and should not be relied upon to cover all situations in all cases.

Form SF-3881, Electronic Funds Transfer Payment Enrollment Form, must be furnished to the borrower at the time of delivery of the letter of conditions for each loan and/or grant which will be established for the borrower. Once completed, the form(s) should be retained in Position 2 of the borrower's official file. Please note the following:

- A. If the letter of conditions is delivered to an entity who has received no prior Rural Development assistance and who will be establishing new accounting information on the Electronic Funds Transfer (EFT) system for the loan and/or grant, it will be necessary for both the borrower and the financial institution to expeditiously complete the form and return it to the Area Office. The Area Office should then establish the account information in the EFT system after notification from the State Office that funds have been obligated.
- B. If an existing borrower is receiving a subsequent loan and/or grant and they have already furnished their financial account information for prior loans and/or grants, the borrower can confirm at the time of delivery of the letter of conditions that the account information remains unchanged by writing "No Change" in both the Payee and Financial Institution sections of Form SF-3881 and signing the form. The Area Office should then establish a new account(s) under the new loan and/or grant numbers, using the routing and bank account numbers previously provided after notification from the State Office that funds have been obligated.

The following attachments to Exhibit B are to be used as guides to facilitate meeting the requirements of the letter of conditions:

- 1. Attachment 1 - Request for Lower Interest Rate
- 2. Attachment 2 - Resolution Adopting Agreements, Documents, and Forms

V. Paragraphs 1942.6(a), 1942.7, and 1942.17(o)(1) - Loan and Grant Closing, and Paragraph 1942.19 - Information Pertaining to Preparation of Notes or Bonds and Bond Transcript Documents for Public Body Applicants.

These instructions are supplemented to give specific guidance, establish document signatory requirements, minimum review requirements, and to provide standard instructions for closing Essential Community Facilities loans in Virginia.

- A. Exhibit C - Closing Guidelines for Essential Community Facilities Loans to Public Bodies.
  - 1. This exhibit contains requirements common to closing most Essential Community Facilities loans to public bodies and establishes the closing official's minimum review and document requirements.
  - 2. Submission of a request for closing instructions by the Area Office to the Program Director must contain draft closing documents which may include but are not limited to:

- a. Form RD 1942-47, Loan Resolution (Public Bodies) - You must review this form to ensure it has been completed properly. REMEMBER: This form is a resolution of the governing body (i.e., Board of Directors, Town Council) of the public body, not a resolution of the public body itself. Also, the vote shown on page 2 must indicate the vote of the governing body.
  - b. Ordinance of public body authorizing the bond issue.
  - c. Bond Resolution setting forth details of the bond issue.
  - d. Specimen Bond or Form of Bond included in the Bond Resolution.
  - e. Form of Final Opinion of Bond Counsel.
  - f. Any other pertinent documents to be reviewed by the Program Director and/or the Office of General Counsel.
- B. Exhibit D - Closing Guidelines for Essential Community Facility Loans to Non-Profit (Non-Public) Bodies.
1. This exhibit contains requirements common to closing most Essential Community Facility loans to non-public bodies and establishes the closing official's minimum review and document requirements.
  2. Submission of a request for closing instructions by the Area Office to the Program Director must contain draft closing documents which may include but are not limited to:
    - a. Copy of completed Form RD 1942-8, Resolution of Members or Stockholders - You must review this form to ensure it has been completed properly. REMEMBER: This is a resolution of the total membership of the entity and the number of members stated in the Certification must reflect the total number.
    - b. Form RD 1942-9, Loan Resolution Security Agreement - You must review this form to ensure it has been completed properly. REMEMBER: This form is a resolution of the governing body (i.e., Board of Directors) of the entity and the vote shown after Section 12 of the form and the number of members indicated in the Certification must reflect the number of members of the governing body. However, the number of members referred to and to be completed in the second WHEREAS paragraph on the first page of the form must indicate total membership versus the members of the governing body.
    - c. Form RD 440-22, Promissory Note (Association or Organization) - You must review this form to ensure it has been completed in accordance with the Forms Manual Insert (FMI) for the form.

- d. Corporate Real Estate Deed of Trust for Virginia - Exhibit D, Attachment 1, is the acceptable format for the Deed of Trust which should be reproduced and completed by the Area Office.
  - e. Forms UCC1, UCC1Ad, and UCC3, Financing Statements - A form with the appropriate attachment should be completed. Exhibit D, Attachment 2, should be used as a guide in preparing a description of collateral. Form UCC1 is used when filing a new financing statement with the State Corporation Commission. Forms UCC1 and UCC1Ad are used when filing a new financing statement with the local County to be indexed against the real estate. Form UCC3 is to be used as a continuation statement or to make any amendments to either State or local financing statements.
  - f. Exhibit D, Attachment 3, Security Agreement (VA Form RD 440-4)
  - g. Form RD 1927-9, Preliminary Title Opinion, or a Preliminary Title Binder.
  - h. Form RD 1927-10, Final Title Opinion, or Title Insurance Policy.
  - i. Opinion of applicant's attorney - Exhibit D, Attachment 4, is to be used by the attorney as a guide.
3. Exhibit E is to be used as the form of Closing Certificate to be executed by the closing official upon closing any loan to a public body or a non-public body. This executed Certificate must be filed in the borrower case file and two manually executed copies forwarded to the Program Director when the file is submitted for post closing review.

**VI. Paragraph 1942.17(h)(2)(ii)(B)**

The U.S. Department of Housing and Urban Development prohibits the payment of connection fees by low and moderate income families on projects which use their Community Development Block Grants. On projects jointly funded with CDBG funds, the following will apply:

- A. Low and moderate income families may be charged a prepayment/deposit at the time they execute their user agreement to connect to the Rural Utilities Service/Community Development Block Grant funded improvement. This prepayment will be limited to no more than an amount equivalent to the projected minimum user fee for six months.
- B. Upon completion of construction/start-up of service, an account will be set up for the customer with a credit in the amount of their deposit.
- C. As monthly billing takes place, the customer will be credited with their deposit, against actual use until that amount is depleted.

**VII. Paragraph 1942.17(j)(4)(i)(B) - Title for land or existing facilities.**  
**VA PN No. 176 (Rev. 01-13-03)**

From time to time in reviewing deeds, title opinions, and property descriptions, you can be expected to encounter a class of title exceptions which attorneys loosely categorize as "reverters" or "reversions." In either case, the existence of such a defect should be of critical importance to any lender taking real estate as security for a loan.

Simply put, real estate subject to a reversion will automatically go back to the former owner at a later date, and real estate subject to a reverter will go back to the former owner upon the occurrence or non-occurrence of some future condition which may or may not occur. In either case, the value of the real estate security is substantially diminished by the existence of these defects and should the reverter or reversion occur, the present owner's interest in the real estate would be extinguished along with any real estate liens given by the present owner.

You are more likely to encounter reversions in loans to individuals. In reviewing deeds, property descriptions, and title binders or opinions, you should be on the alert for words such as "reversion," "life estate," and "so long as grantee shall live." The foregoing are words that limit the new owner's rights to use and enjoy the property. When found, they are typically found at the beginning or the end of the property description. However, they may appear anywhere in an instrument and, of course, other words of limitation may be used besides those quoted above. In any event, they almost always impact adversely on a secured lender's interests.

True reverters are more often found in loans to associations. In transactions where the borrower has acquired title from a municipality or where land has been donated to a charitable organization, you should exercise extra caution in reviewing documents. In such transactions, it is not unusual for a conveyance to a non-profit association to be conditioned upon the borrower's continued use of the property in furtherance of the purposes for which the gift was made. For example, a town may donate land for a nursing home and provide in the deed that the grantee shall have the land "so long as it operates a non-profit health care facility on the premises." Thus, in the event that the borrower became financially distressed and ceased its operations, or made a voluntary conveyance to us, or the property was sold through foreclosure to a profit-making organization, title would automatically go back to the municipality. Obviously, depending upon the condition itself, such a reverter could pose a significant obstacle to effective loan servicing and, in some cases, render any lien on the real estate virtually worthless.

Any time you encounter words such as "reversion," "reverter," "right of re-entry," or similar words of limitation in deeds, declarations, title opinions, title policies, or property descriptions, you should immediately consult with the Program Director who will in turn consult with OGC concerning the legal ramifications of such words. The forms for reversions and reverters may vary substantially from the above examples, depending on the objectives of the original owner and the ingenuity of counsel. When in doubt, it is better to check with the Program Director and OGC. Since title defects of this nature sometimes cannot be resolved and at other times can be resolved only after substantial delays, it is required that these problems be addressed at the earliest stages of loan preparation and not deferred until the closing stage.

VIII. Paragraph 1942.17(l)(1)- Professional Services and Contracts Related to the Facility.

- A. On utility-type projects designed by an engineer, the engineering agreement will consist of the latest Engineers Joint Contract Document Committee (EJCDC) Standard Form of Agreement Between Owner and Engineer for Professional Services, Funding Agency Edition (EJCDC No. 1910-8-FA). This will be modified by Virginia RUS Bulletin 1780-2.
- B. On building projects designed by an architect, the architectural agreement will consist of the latest AIA Document B141, Standard Form of Agreement between Owner and Architect. This will be modified by RD Instruction 1942-A, Guide 27, Attachment 1.

IX. Paragraph 1942.17(r)(2) - Audits and financial statements.

- A. The Rural Development Manager is responsible for obtaining all audit reports and financial statements from the borrower. Sometimes it appears to be a difficult task to obtain copies of borrowers' audits and financial statements as evidenced by the number of letters contained in borrower files which request the copies and the number of follow-up requests for the copies. Letters are not the only means by which to fulfill your responsibilities. Regular borrower visits for security inspections, compliance reviews, and such provide an excellent opportunity for requesting copies of audits and other information needed to properly service and assist your borrowers. Therefore, prior to making a borrower visit, you should determine what items may be needed and request them during your visit.
- B. The Rural Development Manager is responsible for the review of audits and for recommendations and instructions for borrower assistance. RD Instruction 1942-A, Guide 21, will be used to facilitate review of audits that are reviewed by Area Office personnel. Guide 21 must be completed in detail and positive recommendations for any changes that should be made in the audit by the accountant or any changes in the business operations of the borrower must be included.
- C. Audits of borrowers whose indebtedness exceeds \$1,000,000 and of delinquent and problem case borrowers must be promptly reviewed and forwarded to the Program Director. A copy of the completed Guide 21 with appropriate comments and recommendations must be submitted with the audit.

X. Paragraph 1942.18(c) - Construction Contracts

- A. On utility or other type projects designed by an engineer, the engineer will utilize the EJCDC-supplied construction contract documents listed in RUS Bulletin 1780-26 and Virginia RUS Bulletin 1780-1.
- B. On buildings designed by an architect, the architect will utilize the AIA-supplied construction contract documents as listed in RD Instruction 1942-A, Guide 27, as supplemented by Virginia Instruction 1942-A, Guide 1.

- C. For very simple construction contracts, at the suggestion of the State Engineer, Virginia Instruction 1942-A, Guide 2, can be used as the Construction Contract.



REQUIRED INFORMATION FOR  
ESSENTIAL COMMUNITY FACILITIES PREAPPLICATIONS

Agency regulations require certain data to be presented in order to determine applicant eligibility.

In order for us to be more responsive to your request and in order for us to provide you with additional information on possible RHS funding, we request the following checked items be provided with your preapplication. (Unless noted otherwise, please provide two copies.) If your concern is only related to your eligibility, you need only supply items 1 and 8. The forms and guides listed below are available on the indicated web site. If you do not have internet access, please contact our office and we will provide these forms and guides.

1. Standard Form (SF) 424, Application for Federal Assistance, accompanied by SF 424A and 424B for non-construction OR SF 424C and 424D for construction <http://www.aphis.usda.gov:80/mpis/library/forms/forms.html> (Click on "Standard Forms")
2. Intergovernmental Review comments from local Planning District Commission
3. Feasibility Study - FmHA Guide 5 (Omit if included in item 4.) <http://rdinit.usda.gov/regs/> (Click on "Instructions," "Part 1942," "1942-A - Exhibits")
4. Preliminary Architectural/Engineering Report (Guide 6) <http://rdinit.usda.gov/regs/> (Click on "Instructions," "Part 1942," "1942-A - Exhibits")
5. Copies of outstanding debt instruments (copies of notes, Deeds of Trust, bonds, financing statements/security agreements, and leases, etc.)
6. Form FmHA 442-3, Balance Sheet <http://rdinit.usda.gov/regs/formtoc.html> (Click on "Series 400 forms")
7. Form FmHA 1940-20, Request for Environmental Information <http://rdinit.usda.gov/regs/formtoc.html> (Click on "Series 1900 forms")
8. Copy of Charter, Articles of Incorporation, By-Laws, etc., (certified) creating the applicant entity
9. Statement from State Historical Preservation Officer concerning historical sites and archaeological properties
10. Financial Reports for the previous five years
11. Brief statement describing (a) how the facility will be operated, (b) the service area [attach maps], and (c) sources of income
12. Legal Services Agreement
13. Agreement for Architectural Services
14. Projected operating budget for the facility [identify income sources and expense items]

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**Exhibit A, Page 2**

If you need further assistance, please feel free to write or call the person(s) listed below.  
Your contact person(s) is:

_____
(Name and Title)
_____
(Address)
_____
(Telephone)

Please note that items 2 and 9 require copies of the preapplication and a description of the project [detailing its exact nature, its location(s), etc.] to be sent to the following address:

Item 2: Insert name and address of appropriate Planning District Commission

_____
_____
_____
_____

Item 9: Archaeological properties and historical sites:

Department of Historic Resources  
221 Governor Street  
Richmond, Virginia 23219  
Telephone: (804) 786-3144

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(Community Facility LOC)**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear \_\_\_\_\_:

This letter, with Attachments 1 through \_\_\_\_\_, establishes conditions which must be understood and agreed to by you before further consideration may be given to your application for financial assistance from the Rural Housing Service (RHS) for \_\_\_\_\_. The Rural Development staff administers this financial assistance on behalf of RHS. Any changes in project cost, source of funds, scope of services, or any other significant changes in the project or applicant must be reported to and approved by RHS by written amendment to this letter. Any changes not approved by Rural Development shall be cause for discontinuing processing of the application.

This letter is not to be considered as loan (and grant) approval or as a representation as to the availability of funds. The docket may be completed on the basis of an RHS loan not to exceed \$\_\_\_\_\_, an RHS grant not to exceed \$\_\_\_\_\_, and other funding in the amount of \$\_\_\_\_\_, for a total project cost of \$\_\_\_\_\_. The other funding is planned in the form of \_\_\_\_\_ from \_\_\_\_\_.

If RHS makes the loan, you may make a written request that the interest rate be the lower of the rate in effect at the time of loan approval or the time of loan closing. If you do not request the lower of the two interest rates, the interest rate charged at closing will be the rate in effect at the time of loan approval. The loan will be considered approved on the date a signed copy of Form RD 1940-1, Request for Obligation of Funds, is mailed to you. If you want the lower of the two rates, your written request should be submitted to Rural Development as soon as practical. In order to avoid possible delays in loan closing such a request should ordinarily be submitted at least 30 calendar days before loan closing.

All regulations, forms, and bulletins outlined in this letter can be obtained from our web site at <http://rdinit.usda.gov/regs/> (click on "Instructions" or "Forms," as appropriate, in the upper left-hand corner). From this web site, you must review RD Instruction 1942-A, Sections 1942.17, 1942.18, and 1942.19, (and RD Instruction 3570-B). You must also review RD Instruction 1940-Q and all exhibits. If you do not have internet access, we will provide the appropriate documents. Any regulation, form, or bulletin identified in this letter as a Virginia form will be provided to you at the appropriate time.

Extra copies of this letter are being provided for use by your engineer/architect, attorney, bond counsel, and accountant. These representatives must also review the appropriate subparts of RD Instruction 1942-A.

Attached are the following:

Attachment No. 1 - Project Planning Factors  
Attachment No. 2 - Virginia Instruction 1942-A, Guide 1, with attachments  
[Building Construction]

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Attachment No. 3 - RUS Bulletin 1780-26 and Virginia RUS Bulletin 1780-1  
[Utility-type Construction]  
Attachment No. 4 - Form RD 1942-46, Letter of Intent to Meet Conditions

The conditions referred to in the first paragraph of this letter are as follows:

1. Loan Repayment - The loan will be scheduled for repayment over a period of \_\_\_\_\_ years. The payment due the first anniversary (and second anniversaries) will be interest only. Payments for the remaining \_\_\_\_\_ months will be equal amortized monthly installments. For planning purposes use a \_\_\_\_\_ interest rate and a monthly amortization factor of \_\_\_\_\_, which provides for a monthly payment of \$\_\_\_\_\_.

A debt service reserve is required and must be accumulated at the rate of 10% of the monthly debt payment until a sum equal to no less than one annual installment is accumulated.

You will be required to participate in the Preauthorized Debit (PAD) payment process. It will allow for your payment to be electronically debited from your account on the day your payment is due.

1. Loan Repayment - The loan will be scheduled for repayment over a period of \_\_\_\_\_ years. The payment due the first anniversary (and second anniversaries) will be interest only. Payments for the remaining \_\_\_\_\_ years will be equally amortized annual installments. For planning purposes, use a \_\_\_\_\_ interest rate and an annual amortization factor of \_\_\_\_\_, which provides for an annual payment of \$\_\_\_\_\_.

A debt service reserve is required and must be accumulated at the rate of 10% of the annual debt payments until a sum equal to no less than one annual installment is accumulated.

You will be required to participate in the Preauthorized Debit (PAD) payment process. It will allow for your payment to be electronically debited from your account on the day your payment is due.

2. Security - The loan must be secured by a General Obligation Bond which pledges the full faith and credit of the issuer and other agreements between you and Rural Development as set forth in the Bond Resolution, which must be properly adopted and executed by the appropriate officials of your organization. Additional security requirements are contained in Form RD 1942-47 (and Form RD 3570-3).
2. Security - The loan must be secured by a Promissory Note, Deed of Trust having first priority, a financing statement on all accounts and general intangibles of the \_\_\_\_\_ [and all (equipment) (and fixtures) financed with these loan (and grant) funds], a Security Agreement using Virginia Form RD 440-4, and other agreements between you and Rural Development as set forth in Form RD

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1942-9, Association Loan Resolution, (and Form RD 3570-3, Agreement for Administrative Requirements for Community Facility Grants) which must be adopted and executed by the appropriate applicant officials. Prior to the adoption of the Association Loan Resolution, the members of the Association, at a properly called meeting, must review and adopt Form RD 1942-8, Resolution of Members or Stockholders.

You must provide for us a description of the equipment. The description where possible must include the year, make, model, and serial number.

You must provide us with an "as-developed" real estate appraisal, performed by a qualified licensed appraiser, that shows the value of the property serving as security for the loan is equal to, or greater than, the proposed loan(s).

Your attorney must provide us with a description of the real property, including a plat, which will be included in the Deed of Trust, and a title insurance binder.

3. Bond Counsel - The services of a recognized bond counsel are required. The bond counsel will prepare the form of Resolution to be used, in accordance with RD Instruction 1942-A, Section 1942.19. You should immediately provide your bond counsel with a copy of this letter of conditions.
4. Legal Services Agreement - [The agreement you provided with your preapplication and application for legal services has been found acceptable.] [You must provide an agreement for legal services for our review.] The cost for this service has been included in the project budget contained in Attachment 1.
5. Organizational Documents - (We have) (Our Office of General Counsel has) reviewed the documents creating your \_\_\_\_\_ and (have found them acceptable) (the following changes are necessary).
6. Facility Control - Prior to advertisement for construction bids, you must furnish satisfactory evidence that you have or can obtain adequate continuous and valid control over the lands needed for the project. Such evidence must be in the following form:
  - a. A right-of-way map showing clearly the location of all lands and rights needed for the project. The map must designate public and private lands and rights and the appropriate legal ownership thereof.
  - b. Copies of deeds, contracts, leases, or options for any real estate needed, other than rights-of way, along with a preliminary title opinion covering such lands. Form RD 1927-9, Preliminary Title Opinion, may be used. Also in the case of existing facilities where you have already acquired real property (land or facilities), a preliminary title opinion must be provided.
  - b. Copies of deeds, contracts, leases, or options for any real estate needed along with a title insurance binder for same. In cases of existing facilities, this will also include previously acquired rights. The binder will be in the amount of the proposed loan and name the United States of America, acting

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through the United States Department of Agriculture, as the proposed insured.

- c. Immediately after closing, a final title opinion showing no exceptions must be provided.
- c. Immediately after closing, a Title Insurance Policy showing no exceptions must be provided.
- d. A copy of the right-of-way easements for any rights-of-way needed on private lands. Form RD 442-20, Right-of-Way Easement, may be used. Each easement need not be provided this office; however, each must be available for Rural Development review. A copy of the easement to be used must be approved by Rural Development.
- e. Form RD 442-21, Right-of-Way Certificate, and Form RD 442-22, Opinion of Counsel Relative to Rights-of-Way, must be completed. These forms may contain a few exceptions such as properties that must be condemned; however, prior to start of construction or loan closing, whichever occurs first, new Forms RD 442-21 and 442-22, which do not provide for any exceptions, must be provided.

If rights-of-way are not needed for the proposed project, a certification to that effect from your attorney will satisfy items a, d, and e above.

7. Permits - Copies of all permits needed for the project or a statement of permit availability from the permit issuer must be provided for our review prior to advertisement for construction bids. Such permits may include but are not limited to the following:

- Zoning Code Permits
- Building Code Permits (including erosion & sedimentation control plans)
- Virginia Department of Highways and Transportation
- Railroads
- State Department of Health
- Department of Environmental Quality
- Corps of Engineers
- State Corporation Commission
- Marine Resources Commission

In addition, you must provide a narrative opinion from your attorney which identifies and addresses the need and adequacy of all certificates, permits, licenses, etc., needed for the construction and operation of the facility.

8. Accounting - You must enter into an audit agreement with a qualified accountant. You must obtain from your accountant the following:
- a. Prior to advertisement for bids, your accountant must state in writing that he will establish your accounts and records in accordance with the requirements

of the (Loan Agreement) (Resolution) (Ordinance), and the requirements of the State Corporation Commission, if applicable, within 20 days from the notice to do such.

- b. Prior to loan closing or the start of construction, whichever occurs first, the accountant must certify that the accounts and records as required in (a) above have been established and are operational.

A Rural Development representative may want to review your accounts and records.

8. Accounting - You must maintain an audit agreement with a qualified accountant. You must obtain from your accountant a certification that the records and accounts required by your previous USDA financing have been established and are operational.

A Rural Development representative may want to review your accounts and records.

9. Audit Requirements - Audited financial statements shall be submitted on an annual basis in accordance with the Government Auditing Standards (GAAS), General Accepted Accounting Principles (GAAP), and the Generally Accepted Government Auditing Standards (GAGAS) issued by the Comptroller General of the United States, 1994 revision, and any subsequent revisions.

Audits performed in accordance with OMB Circular A-133, "Audits of States, Local Governments, and Non-profit Organizations," are based upon the amount of Federal financial assistance expended during a borrower's fiscal year from a Federal source. **Borrowers expending Federal financial assistance over \$300,000 are required to have an OMB Circular A-133 audit. Borrowers expending less than \$300,000 in Federal financial assistance are required to submit financial statements, either GAAS, GAGAS, or management reports, based upon loan balances and prevailing Federal regulations.**

In addition to the audit required above, RD Instruction 1942-A outlines management reports which must be submitted to Rural Development. As soon as the facility is operational, you will be required to provide these reports.

10. Insurance and Bonding Requirements - Prior to loan closing or start of construction, whichever occurs first, you must acquire the following insurance and bond coverage:
  - a. Liability and Property Damage Insurance - (1) The project will be reviewed for liability and property damage needs, and amounts will be established accordingly, and (2) public liability and property damage insurance will be obtained on all vehicles driven over public highways.
  - b. Workers' Compensation - In accordance with appropriate State Laws.
  - c. Position Fidelity Bond Coverage - You must provide evidence of adequate fidelity bond coverage for all persons who have access to funds by loan

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closing or start of construction, whichever occurs first. Coverage may be provided either for all individual positions or persons, or through "blanket" coverage providing protection for all appropriate employees and/or officials. The amount of coverage will normally approximate the total annual debt service requirements for your RHS loan. Form RD 440-24, Position Fidelity Schedule Bond, may be used for this purpose. We encourage you to have your attorney, consulting engineer/architect, and/or insurance provider review proposed types and amounts of coverage, including any deductible provisions. Rural Development must agree on the acceptability of proposed coverage. You must continue to provide evidence to Rural Development that adequate coverage is being maintained for the life of the loan. This is your responsibility, not that of Rural Development.

- d. National Flood Insurance - In addition to meeting the requirements for the type of assistance requested, the following requirements must be met for financial assistance for acquisition and/or construction in designated special flood or mudslide prone areas:
    - 1. If flood insurance is available, you must purchase a flood insurance policy at the time of loan closing.
    - 2. Applicants whose buildings, machinery, or equipment are to be located in an area which has been notified as having special flood or mudslide prone areas will not receive financial assistance where flood insurance is not available.
  - e. Property Insurance - Before loan closing, you must purchase property insurance in the amount of the initial contract sum, as well as subsequent modifications thereto, for the entire work at the site on a replacement cost basis without voluntary deductibles. Such property insurance shall be maintained until final acceptance of the work. This insurance shall include interests of the owner, the contractor, sub-contractors, and sub-subcontractors in the work. Property insurance shall be on an all-risk policy form and shall insure against the perils of fire, extended coverage, and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, false-work, temporary buildings, and debris removal, including demolition occasioned by enforcement of any applicable legal requirements. The policy shall cover reasonable compensation for architect's or engineer's services and expenses required as a result of the loss.
  - f. Real Property Insurance - Prior to the acceptance of the facility from the contractor(s), you must obtain real property insurance (fire and extended coverage) on all above-ground structures to include machinery and equipment housed therein, in an amount equal to the insurable value thereof.
11. Agreement for Engineering/Architectural Services - [The agreement you provided with your preapplication and application for engineering/architectural services has been found acceptable.] [You must provide an agreement for



**Virginia Instruction 1942-A  
Exhibit B, Page 7  
(Community Facility LOC)**

engineering/architectural services for our review.] The cost for this service has been included in the project budget contained in Attachment No. 1.

12. Procurement - You may use competitive negotiation for the construction of your facility. Your engineer/architect must develop the plans and specifications and a request for proposal. Prior to soliciting for offers, Rural Development must review and approve the request for proposal (RFP) and plans and specifications.
12. Procurement - You may proceed to acquire the proposed vehicles and/or equipment by competitive negotiation. You must develop a Request for Proposal (RFP) and specifications. Rural Development must review and give prior approval to the specifications and RFP before soliciting for offers.

Following the receipt of offers, Rural Development must be provided with the following:

- a. Summary of all offers
  - b. Copy of the successful offer
  - c. Narrative summary of all negotiations
  - d. Copy of notice to all unsuccessful offerors
  - e. Copy of resolution of tentative award
13. Contract Documents (Equipment and Buildings Under \$100,000)
    - a. Request for proposal (RFP)
    - b. Plans
    - c. Specifications
    - d. VA Instruction 1942-A, Guide 2, Construction Contract; OR
    - d. Other contract covering the purchase of equipment

The following information and records must be established and maintained:

1. Copy of successful offer
  2. Summary of all offers and a narrative summary of all negotiations
  3. Revised project budget based on successful offer
  4. Engineer/Architect recommendation of award
  5. Resolution (owner's) of tentative award
  6. Notice to unsuccessful offeror(s)
12. Procurement - You are required to competitively bid the proposed project. Your architect/engineer must develop the contract documents in accordance with the requirements of Item 13.
  13. Contract Documents (Buildings over \$100,000) - Prior to the approval of plans and specifications, you must submit the following items to Rural Development for review and approval: Construction contract documents prepared in accordance with RD Instruction 1942-A, Guide 27, as supplemented by Virginia Instruction 1942-A, Guide 1, as well as final plans, specifications, and all addenda.

**Virginia Instruction 1942-A**  
**Exhibit B, Page 8**  
**(Community Facility LOC)**

13. Contract Documents (Utility Type) - The contract documents should consist of the following and must be submitted to Rural Development for approval:
- a. The documents listed in RUS Bulletin 1780-26 and Virginia RUS Bulletin 1780-1.
  - b. Plans and specifications and all addenda.

**NOTE:** For competitively negotiated contracts, the invitation to bid, instructions to bidders, and bid forms are to be deleted and a request for proposal substituted in its place.

14. Code of conduct - Owners shall adopt and maintain a written code or standards of conduct which shall govern the performance of their officers, employees, or agents engaged in the award and administration of contracts supported by RHS funds. No employee, officer, or agent of the owner shall participate in the selection, award, or administration of a contract supported by RHS funds if a conflict of interest, real or apparent, would be involved.
15. Interim Financing - Interim financing must be used for the RHS loan provided such funds can be borrowed at reasonable rates and terms. You must provide Rural Development with a copy of the tentative agreement reached in connection with interim financing.
16. Other Funds - Prior to advertisement for construction bids, you must provide evidence showing the availability of the other funds.
17. Disbursement of RHS Grant Funds - RHS grant funds will be advanced as they are needed in the amount necessary to cover the RHS proportionate share of obligations due and payable by the \_\_\_\_\_ (insert applicant's name). Interest earned on grant funds in excess of \$\_\_\_\_\_ (insert \$250 for non-profit applicants **OR** \$100 for public body applicants) per year will be submitted to RHS at least quarterly as required in \_\_\_\_\_ (insert 7 CFR 3019 for non-profit applicants **OR** 7 CFR 3016 for public body applicants).
18. Community Facilities Grant (CFG) - You will be required to execute Form RD 3570-3, Agreement for Administrative Requirements for Community Facility Grants, at the time of grant closing.

CFG assistance is subject to the interest of the United States Government in the market value of the property attributable to the Federal participation in this project provided by 7 CFR, parts 3015, 2016, or 3019 et. seq., as subsequently modified.

CFG assistance is subject to the provisions of Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973 and the regulations issued thereto. This covenant is in effect for as long as the property continues

to be used for the same or similar purpose for which the financial assistance was extended or for as long as the grantee owns it, whichever is longer.

19. Agency Forms - You will be required to execute certain Agency forms in order to obtain financial assistance from RHS. By Resolution, these forms must be adopted and properly executed, and minutes showing the adoption must be provided.
20. Environmental Mitigation - As a result of the environmental review performed for this project, the following mitigation requirements must be accomplished:
  - a.

Under Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), no handicapped individual in the United States shall, solely by reason of their handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving RHS financial assistance.

As a recipient of Federal financial assistance, you must be in compliance, and continue to comply, with Title VI of the Civil Rights Act of 1964 and the Rural Development regulations promulgated by this Act. Your signature on Form RD 400-4, Assurance Agreement, is your commitment to comply with these Federal laws and regulations, as well as your agreement to maintain records and data to verify your compliance. The data you must provide depends on the type of project financed with Rural Development funds, and guidance will be provided to you by Rural Development. Your compliance is monitored through compliance reviews conducted by Agency personnel. The first compliance review will be conducted (prior to, or concurrent with, loan closing) (one year from the date of loan closing), with subsequent compliance reviews conducted every three years.

Rural Development may authorize you to advertise the project for construction bids once all required documents have been submitted. Such advertisement must be in accordance with appropriate State statutes. Immediately after bid opening, you must provide Rural Development with (a) a bid tabulation, (b) recommendations from you and your engineer/architect as to the acceptability of the bids received, (c) your recommendations for contract awards, and (d) a revised project budget based upon current prices.

If all parties then agree the construction bids received are acceptable and it is determined that adequate funds are available to cover the total facility costs and that all the administrative conditions of loan approval have been satisfied, loan closing instructions will be issued. The closing instructions, a copy of which will be forwarded to you, will set forth any further requirements that must be met before the loan can be closed. **LOAN CLOSING WILL NOT BE SCHEDULED UNTIL CLOSING INSTRUCTIONS ARE RECEIVED FROM RURAL DEVELOPMENT.** When all parties agree that the closing requirements can be met, a mutually acceptable date for the loan closing will be scheduled.

**Virginia Instruction 1942-A  
Exhibit B, Page 10  
(Community Facility LOC)**

The Debt Collection Improvement Act (DCIA) of 1996 requires that all Federal payments be made by Electronic Funds Transfer/Automated Clearing House (EFT/ACH). Borrowers receiving payments by EFT will have funds directly deposited to a specified account at a financial institution with funds being available to the recipient on the date of payment. The borrower should complete Form SF-3881, Electronic Funds Transfer Payment Enrollment Form, for each account where funds will be electronically received. The completed form(s) must be received by Rural Development at least thirty (30) days prior to the first advance of funds.

As a recipient of federal financial assistance, you must comply with all applicable federal, state, and local statutes, ordinances, regulations, and codes. The major portion of existing Rural Development rules and regulations which must be met are included in RD Instruction 1942-A [and RD Instruction 3570-B]. No modifications or waiver of any portion of these regulations is authorized. Such regulations shall govern regardless of any misinterpretation, omission, misunderstanding, or statements made by any Rural Development employee. The most critical requirements of the instructions have been highlighted or clarified in this letter.

In addition, you will be required to refinance the unpaid balance of the proposed loan, in whole or in part, upon the request of the government if at any time it shall appear to the government that you are able to refinance your obligation by obtaining a loan for such purposes from responsible lending sources at reasonable rates and terms for loans for similar purposes and periods of time.

The applicant contribution shall be considered first funds expended except \_\_\_\_\_ (insert appropriate exceptions if funds from other sources make an exception necessary). After providing for all authorized cost, any remaining RHS funds will be considered to be grant funds and will be refunded to RHS. If the amount refunded exceeds the RHS grant, then that part would be considered RHS loan funds.

We believe the information herein clearly sets forth the action which must be taken; however, if you have any questions, please do not hesitate to contact my office.

Please complete and return the attached Form RD 1942-46, Letter of Intent to Meet Conditions, if you desire that further consideration be given to your application.

If the conditions set forth in this letter are not met within \_\_\_\_\_ months from the date hereof, Rural Development reserves the right to discontinue processing of the application.

Sincerely yours,

\_\_\_\_\_  
Rural Development Manager  
USDA, Rural Development

cc: Deputy Administrator, Community Programs, RHS, Washington, D.C.

State Director, Rural Development, Richmond, VA  
Attorney  
Bond Counsel  
Accountant  
Engineer/Architect

Attachment No. 1  
Letter of Conditions  
For: \_\_\_\_\_  
Dated: \_\_\_\_\_

### PROJECT PLANNING FACTORS

The following estimates are to be used as a basis for project planning and must not be changed without prior approval of Rural Development:

#### PROJECT COSTS

Construction	\$ _____
Contingency	_____
Equipment	_____
Legal Fees	_____
Title Insurance	_____
Technical Fees:	
Architectural:	
Basic	_____
Additional	_____
Engineering:	
Basic	_____
Additional	_____
Inspection	_____
Interest	_____
Other	_____
 TOTAL	 \$ _____

#### FUNDING

RHS Loan	\$ _____
RHS Grant	_____
Other	_____
Borrower Contribution	_____
 TOTAL	 \$ _____

OPERATING BUDGET - TYPICAL YEAR

Income

Operating Income	\$ _____	
Non-operating Income	_____	
Other	_____	
 TOTAL	 \$ _____	 \$ _____

Expenses

Administrative Expenses	\$ _____	
Insurance	_____	
Taxes	_____	
Operating Expenses	_____	
Operation and Maintenance	_____	
Debt Service	_____	
Debt Reserve	_____	
Other	_____	
 TOTAL	 \$ _____	 _____

BALANCE		\$ _____
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RESOLUTION OF GOVERNING BODY OF

\_\_\_\_\_

The governing body of the \_\_\_\_\_, consisting of \_\_\_\_\_ members, in a duly called meeting held on the \_\_\_\_\_ day of \_\_\_\_\_ at which a quorum was present RESOLVED as follows:

BE IT HEREBY RESOLVED that, in order to facilitate obtaining financial assistance from the United States of America, acting by and through the Rural Housing Service, an agency of the United States Department of Agriculture, (the Government) in the development of a \_\_\_\_\_ to serve the community, the governing body does hereby adopt and abide by the covenants contained in the agreements, documents, and forms required by the Government to be executed.

BE IT FURTHER RESOLVED that the \_\_\_\_\_ of the \_\_\_\_\_ be authorized to execute on behalf of the above-referenced agreements and to execute such other documents including, but not limited to, debt instruments and security instruments as may be required in obtaining the said financial assistance.

This Resolution, along with a copy of the above-referenced documents, is hereby entered into the permanent minutes of the meetings of this Board.

Attest: \_\_\_\_\_ By \_\_\_\_\_  
(ENTITY NAME)

C E R T I F I C A T I O N

I hereby certify that the above resolution was duly adopted by the \_\_\_\_\_ of the \_\_\_\_\_ in a duly assembled meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Secretary/Clerk



CLOSING GUIDELINES FOR ESSENTIAL COMMUNITY  
FACILITIES LOANS TO NON-PROFIT (NON-PUBLIC) BODIES

A. General

1. Administrative. The following materials should be reviewed to assure full compliance with all administrative requirements:
  - a. FmHA Instruction 1942-A
  - b. Letter of Conditions (including any amendments)
  - c. Correspondence from the Program Director
  - d. Correspondence from the National Office
2. Taxes. Make certain that all taxes and assessments against the real estate, which are due and payable at the time of closing, have been paid and require tax receipts to be produced at loan closing.
3. Insurance. Make certain that the borrower furnishes policies and/or certificates of insurance at closing in form and substance administratively acceptable to you in light of Agency instructions and the letter of conditions.
4. Civil Rights. Confirm that the following fully executed Civil Rights forms are in the docket:
  - a. Form RD 400-1, Equal Opportunity Agreement
  - b. Form RD 400-4, Assurance Agreement
  - c. Form RD 400-8, Compliance Review, in accordance with RD Instruction 1901-E
5. Environmental Review. Confirm that a completed and executed environmental review, under 1940-G, is in the docket. If the assessment indicates that an environmental impact statement must be filed, this must be accomplished prior to loan closing.
6. Intergovernmental Review Comments. Confirm that approval has been received from the local Planning District Commission. Note any comments received and confirm that the Applicant intends to comply with such comments. If the applicant expresses a contrary intention, the Program Director should be notified immediately in detail. The notified Program Director should be consulted with respect to the legal ramifications of any such noncompliance.

B. Organizational Papers

1. Articles of Incorporation. Confirm that the borrower has furnished a copy of its current Articles of Incorporation. These should be manually certified by its Secretary or the State Corporation Commission as being a true and correct copy of the original, including any amendments. The Articles of Incorporation should be checked to be certain that:

- a. The borrower's correct legal name is being used on all the loan instruments.
  - b. The borrower has the power to borrow money and carry out the purposes of the loan.
  - c. The members are not specifically authorized to vote on corporate mortgages. If they are, such provisions must be complied with along with section 13.1-846 (1989) of the Code of Virginia.
  - d. The borrower's term of existence is at least as long as the loan.
2. By-Laws. Confirm that the borrower has furnished a current copy of its By-Laws. These should be manually certified by its Secretary as being a true and correct copy of the original, including any amendments. The By-Laws should be checked to be certain that:
- a. The titles of the officers used in the loan instruments are correct.
  - b. The provisions of the By-Laws do not conflict with any provision of the Articles of Incorporation or any amendments thereto.
  - c. There are no provisions which would violate the Civil Rights Agreements described in A.4 hereof.
  - d. There are no restrictions on borrowing funds, pledging assets, or other transactions contemplated by the loan instruments.
3. Certificate of Good Standing. The borrower should furnish an original Certificate of Good Standing from the State Corporation Commission. The certificate should be dated as close to the date of closing as practicable and should be checked to be certain that the borrower's name is the same as the one being used on the loan instruments. The certificate should not be any older than one (1) year from the date of closing.

**C. Resolutions**

1. Form RD 1942-8. Confirm that Form 1942-8 has been duly adopted by the general membership of the borrower. The borrower's Secretary must complete the certification on the bottom to the effect that the resolution is still in effect and has not been amended. If Form 1942-8 was not adopted, then borrower's counsel must supply a legal opinion addressed to RUS stating that such approval by the membership is not necessary.
2. Form RD 1942-9. Confirm that Form 1942-9 has been duly adopted by the members of the borrower's governing Board of Directors and executed by the President and Secretary. The borrower's Secretary should complete the certification at closing to the effect that the resolution is still in effect and has not been amended.

3. Member's Approval of Deed of Trust/Mortgage. If the borrower's Articles of Incorporation or By-Laws specifically entitle members to vote on a mortgage or pledge of corporate assets, confirm that the request for closing instructions identified this requirement and confirm that OGC sent specific instructions concerning compliance with Sections 13.1-899 (1989) and 13.1-900 (1989) of the Code of Virginia. Contact the Program Director well before closing if any discrepancies are noted.

D. Execution of Instruments

1. All loan and security instruments must be executed and attested by those officials authorized to do so in the Articles of Incorporation and By-Laws and in the manner required by the Articles of Incorporation and By-Laws.
2. Manual Signature. All legal instruments should be manually executed originals. The name and title of the person signing should be typed or printed above or below his signature. The original manual signature of the Secretary should appear on all corporate organizational papers and proceedings furnished to RUS. Originals should be retained by RHS.
3. Seal. The borrower's corporate seal should be impressed on all documents. Check sealed instruments carefully to be certain that the correct seal is used.
4. Dates. Legal instruments E.1 and E.2 below should be dated and executed as of the date of loan closing.
5. Blanks. All instruments should be carefully checked to see that all blanks have been properly filled in.

E. Legal Instruments

1. Promissory Note. The authorized officials, as set forth in the Articles of Incorporation and By-Laws, must execute and deliver the borrower's Promissory Note on Form RD 440-22. Only one original note should be created and it would be retained by RHS in a safe place in accordance with regulations.
2. Corporate Deed of Trust. The legal description of the premises must be carefully checked and must be satisfactory to RHS and to the borrower's counsel. The instruments must be dated, executed, acknowledged, and filed in the land records in the Clerk's Office for the county, city, or district where the land lies. This should be done on the day of closing under the supervision of the borrower's counsel. If RHS does not desire a lien on real estate, no mortgage should be executed.
3. Financing Statement. All financing statements will be filed with the State Corporation Commission (SCC), as we ordinarily take accounts and general intangibles as security. Equipment is also filed with the SCC. Fixtures are filed with the local County. Fixtures are defined as goods that have become so related to a particular real property that an interest in them arises under real property law. If a lien on motor vehicles is intended, the provisions of E.5 below

must be complied with. If a subsequent loan is being made to an existing borrower and the same security is being taken as covered by existing financing statements, it is not necessary to file new financing statements. However, the existing financing statements must be continued until all loans covered by the security are satisfied.

4. Grant Agreement. In the event a grant is also to be made to the applicant, the grant may be closed in accordance with RD Instruction 3570-B, provided that these closing instructions have also been complied with and duly authorized officials of the applicant have fully executed Form RD 3570-3, Agreement for Administrative Requirements for Community Facilities Grants.
5. Leaseholds. If the borrower is occupying all or a portion of the premises pursuant to a lease, then confirm that this situation has been communicated to OGC in the request for closing instructions and that OGC has issued specific closing instructions on how this can be accomplished. Contact OGC before closing if any discrepancies are noted.
6. Liens on Motor Vehicles. Listing motor vehicles in the financing statement has no effect in Virginia. A security interest in motor vehicles is perfected by filing with the Division of Motor Vehicles on forms provided by it.
7. Security Agreement (VA Form RD 440-4). In all cases where we are taking a security interest in more than accounts and general intangibles, a Security Agreement using Virginia Form RD 440-4 must be obtained. You must insert specific descriptions of the equipment in item 1. If we are taking a security interest in only accounts and general intangibles, the Virginia form of security agreement is not needed; however, Form RD 1942-9 must be executed by the borrower.

**F. Legal Opinions and Title Insurance**

1. Approving Opinion. The borrower's counsel should deliver a manually signed approving legal opinion addressed to RHS and dated the date of closing in the format approved by OGC. This opinion should be on counsel's letterhead. Attachment 4 hereof is to be used as a guide. If the optional language on page 2 is used, the attorney must follow up with another letter which states the documents have been recorded and we have a valid first lien. The case should not be sent to the Program Director for post review until both letters are available.
2. Title Insurance. The borrower must furnish an acceptable title insurance policy endorsed in favor of the United States of America, acting through the Rural Housing Service, an agency of the United States Department of Agriculture. The policy must be in the amount of the proposed loan and all listed exceptions must be reviewed and accepted by the Agency.

**G. Other Requirements**

1. Generally. The preceding standard instructions are subject to modification to take into account special facts and circumstances. Be alert to the presence of such factors as the following:

- a. Second mortgage situations
- b. Leasehold mortgage situations
- c. Pledge of less than an entire tract of real estate
- d. Pledge of less than all of borrower's assets
- e. Absence of interim financing
- f. Parity loans
- g. Any other deviation from routine practice

Whenever such factors are present, confirm that their existence has been noted on the request for closing instructions and confirm that OGC has sent specific instructions on these points. Before closing, advise the Program Director of any discrepancies.

- 2. Specific Closing Instructions. Review and comply with any and all specific closing instructions which OGC may issue in a particular case. Such instructions may modify, amplify, or supersede one or more of the preceding instructions which are of a general nature.
- 3. Questions. Questions from the Rural Development Office should be directed in the first instances to the Program Director for referral to OGC in those instances where the Program Director believes additional legal counsel is advisable.

CORPORATE REAL ESTATE DEED OF TRUST FOR VIRGINIA

This DEED OF TRUST, made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
between \_\_\_\_\_, a nonprofit  
corporation organized and existing under the laws of this State of Virginia, whose  
address is: \_\_\_\_\_  
as grantor, herein called "Borrower," and JAMES R. REID, JR, whose address is 1606  
Santa Rosa Road, Culpeper Building, Suite 238, Richmond, Virginia 23229, as  
Grantee/Trustee, herein called "Trustee," for the benefit of the United States of America,  
acting by and through the Rural Housing Service, an agency of the United States  
Department of Agriculture, as beneficiary, herein called "the Government,"

WITNESSETH THAT:

The Government has lent the Borrower money as evidenced by one or more  
promissory note(s). If more than one note is described below, the word "Note" as used  
herein shall be construed as referring to each note singly or all notes collectively, as the  
context may require and all of them shall have equal lien under this instrument without  
regard to their priority in time, maturity or otherwise. The Note has been executed by  
the Borrower, is payable to the order of the Government in installments as specified  
therein, authorizes acceleration of the entire indebtedness at the option of the  
Government upon any default by the Borrower, and is further described as follows:

<u>Date of</u> <u>Instrument</u>	<u>Principal</u> <u>Amount</u>	<u>Annual</u> <u>Rate of</u> <u>Interest</u>	<u>Due Date</u> <u>of Final</u> <u>Installment</u>
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Exemption from taxation under Virginia Code Sections 58.1-801 and 58.1-803 is  
claimed under Virginia Code Section 58.1-811, and 7 U.S.C., Section 1984.

The Government may assign the Note at any time. The Government may also insure the payment of the Note pursuant to the Consolidated Farm and Rural Development Act.

Whenever the Note is held either by the Government or by an uninsured holder, this instrument shall secure payment of the Note. Whenever the Note is held by an insured holder, however, this instrument shall not secure payment of the Note or attach to the underlying debt. In that event, this instrument shall constitute an indemnity mortgage to secure any payments to an insured holder of the Note or other advances which the Government may be required to make upon default by the Borrower. The insured holder shall have no right, title or interest in or to the lien of this instrument or its benefits. This instrument also secures the Borrower's obligations and covenants under other instruments delivered in connection with the loan evidenced by the Note, including the Borrower's Loan Resolution which hereby is incorporated herein by reference. The Note, Loan Resolution and this instrument together with any supplements, amendments, attachments, modifications, additions and related financing statements are collectively referred to as the "Loan Instruments".

The lien of this instrument shall extend to and cover all real property and property rights of whatever character or nature, that may at any time hereafter be acquired, owned, held, possessed, or enjoyed in any manner by Borrower in or on the premises described below.

NOW THEREFORE, in consideration of the loan(s) as evidenced and described by the Note described above the Borrower does hereby grant, assign, and convey to the Trustee, his successors, grantees and assigns, in fee simple forever, the following property:

ALL that real estate in \_\_\_\_\_ County(ies), Virginia, and being more particularly described as follows:

TOGETHER with all easements and rights of way used in connection with the premises or as a means of access thereto.

TOGETHER with all improvements now on the premises or hereafter placed thereon, including, without limitation, all heating, lighting, refrigeration, plumbing, ventilating, incinerating, water heating, cooling and air-conditioning equipment and apparatus and all appurtenances now and hereafter placed or installed within or about such improvements, and all renewals, replacements, and substitutions therefor, all of which are hereby deemed a part of the realty.

TOGETHER with all fixtures, machinery, appliances, and equipment of every nature and kind whether now on the premises or hereafter to be placed or installed therein or thereon, appurtenant to the buildings erected or to be erected on the premises and intended for the use of occupants, including all of which are hereby deemed a part of the realty as between Borrower and the Government, their successors and assigns, and a portion of the security for the indebtedness herein mentioned and to be conveyed by this instrument.

TOGETHER with all water, water rights, and water stock pertaining thereto, and all payments at any time owing to the Borrower by virtue of any sale, lease, transfer, conveyance, or condemnation of any part thereof or interest therein.

TOGETHER with the rents, issues, and profits of the premises, subject, however, to the right reserved by Borrower to collect and apply such rents, issues, and profits prior to any default hereunder.

PROVIDED, HOWEVER, that with respect to any goods above which are or become fixtures and proceeds thereof this instrument shall also serve as a fixture filing pursuant to Section 8.9-402(6) of the Code of Virginia without the necessity of filing a fixture financing statement under the Uniform Commercial Code.

All of the foregoing property is hereinafter collectively referred to for convenience of reference as the "Encumbered Property."

IN TRUST, to secure (a) payment of the Note in accordance with its terms, including any extensions or renewals thereof, whenever the Note is held by either the Government or by an uninsured holder; (b) repayment, with interest, of any payments, advances and expenditures made by the Government pursuant to the terms of this or any other Loan Instrument; (c) performance of every covenant and agreement of the Borrower's contained in this or any other Loan Instrument; and (d) all future advances, whether obligatory, protective or voluntary, made to the Borrower by the Government from time to time.

The Borrower, for itself, its successors and assigns, WARRANTS the Encumbered Property to the Trustee against the lawful claims of all persons whose claims are not based upon liens, encumbrances, easements or reservations specified above.

The Borrower, for itself, its successors and assigns, COVENANTS AND AGREES as follows:

(1) Borrower will promptly pay any indebtedness secured by this instrument when due.

(2) Borrower will indemnify the Government against any loss which the Government may incur as a result of making payments to an insured holder of the Note after the Borrower's default.



(3) Borrower will pay the Government any fees or other charges required under regulations of the United States of America, acting by and through the Rural Housing Service, an agency of the United States Department of Agriculture.

(4) Borrower will pay when due all taxes, liens, judgments, encumbrances and assessments lawfully attaching to or assessed against the Encumbered Property, and, without demand, will also provide the Government with proof of those payments.

(5) Borrower will pay the Government for any expenses necessary or incidental to (a) the protection of the lien or priority of any Loan Instrument and to (b) the enforcement of or compliance with the provisions of any Loan Instrument. "Expenses" includes (without limitation) costs of evidence of title, surveys, recording fees, attorneys' fees and trustees' fees, as well as court costs and expenses of advertising, selling and conveying the Encumbered Property or any portion of it.

(6) Borrower will use the loan evidenced by the Note solely for the purposes authorized by the Government.

(7) Borrower will keep the Encumbered Property insured as required by the Government and will deliver the originals of all insurance policies to the Government for safekeeping if so requested.

(8) Borrower will comply with all laws, ordinances and regulations affecting the Encumbered Property and the conduct of Borrower's business operations.

(9) Borrower will maintain the Encumbered Property in a good repair and make any repairs the Government may require.

(10) Borrower will operate the Encumbered Property in a good and efficient manner and will comply with management plans and practices which the Government may prescribe from time to time.

(11) Borrower will not abandon the Encumbered Property; effect waste, lessening, or impairment of the Encumbered Property; or cut, remove or lease any timber, gravel, oil, gas, coal or other minerals.

(12) Borrower will not (except as may be authorized in the Loan Resolution or as may be in the ordinary course of business) lease, assign, sell, transfer or further encumber the Encumbered Property or any nonexpendable part thereof, voluntarily or otherwise, either in whole or in part, without the prior written consent of the Government. This covenant may be modified by the Loan Resolution and does not preclude any lease, assignment, sale, transfer or further encumbrance of the Encumbered Property in the ordinary course of the Borrower's business. NOTICE - THE DEBT SECURED HEREBY IS SUBJECT TO CALL IN FULL OR THE TERMS THEREOF BEING MODIFIED IN THE EVENT OF SALE OR CONVEYANCE OF THE PROPERTY CONVEYED EXCEPT AS OTHERWISE PROVIDED IN THIS COVENANT.

(13) The premises described herein was obtained or improved through Federal financial assistance. The Encumbered Property is subject to the provisions of Title VI of the Civil Rights Act of 1964 and the regulations issued pursuant thereto for so long as the premises continues to be used for the same or similar purpose for which financial assistance was extended or for so long as the Borrower owns it, whichever is longer.

(14) If at any time it shall appear to the Government that the Borrower may be able to obtain a loan from a production credit association, a federal land bank, or other responsible cooperative or private credit source, at reasonable rates and terms for loans for similar purposes and periods of time, the Borrower will, upon the Government's request, apply for and accept a loan in sufficient amount to pay the Note and any other indebtedness secured by this instrument and to pay for any stock necessary to be purchased in a cooperative lending agency in connection with such a loan.

(15) The Government may require the Borrower to make additional monthly payments equal to one-twelfth of the estimated taxes, assessments, insurance premiums and other charges upon the Encumbered Property.

(16) The Government and its agents may inspect the Encumbered Property at reasonable times to ascertain whether the Borrower is fulfilling its obligation under this or any other Loan Instrument.

(17) The Government may at any time pay as advances for the Borrower's account any amounts which the Borrower is obligated to pay under any Loan Instrument and any expenses incurred by the Government in enforcing or protecting the Government's rights hereunder. The Government may exercise this right regardless of whether the note is insured and regardless of whether advances exceed the face amount of the Note. Advances by the Government pursuant to the terms of this paragraph shall bear interest at the rate borne by the Note which bears the highest interest rate. Advances, with interest, shall be immediately due and payable by the Borrower at the place designated in the latest Note. Advances under this paragraph shall neither relieve the Borrower of its obligation to pay nor cure any default under any Loan Instrument. Such advances, together with interest accruing on them, shall automatically become a part of the mortgage debt secured by this instrument.

(18) To the extent specified by the Government in writing, the Government in its sole discretion may grant an extension of the time for payment or re-amortize the indebtedness secured by any Loan Instrument, release any party from liability to the Government, release portions of the Encumbered Property from the lien of any Loan Instrument, and waive any other Government right under any Loan Instrument without affecting the lien or priority of any Loan Instrument or the liability of the Borrower or any other party for payment of the indebtedness secured by any Loan Instrument. The Government shall have the sole and exclusive rights as beneficiary hereunder, including, but not limited to, the power to grant consents, partial releases, subordinations, and satisfaction, and no insured holder shall have any right, title, or interest in or to the lien or any benefits hereof.

(19) The Government and its assigns are empowered to appoint a substitute trustee at any time. This power may be exercised without giving any notice or rationale for its use. THE BORROWER WAIVES notice of the exercise of this power and any

requirement of, or right to require, a bond from any substitute trustee. The power to appoint a substitute trustee shall be exercised by filing an instrument of appointment in the office where this instrument is recorded, whereupon the substitute trustee shall succeed to all the estates, rights, powers and trusts granted to or vested in the Trustee and the former trustee or Substitute Trustee shall be divested.

(20) All powers and agencies granted in this instrument are coupled with an interest and are irrevocable by death or otherwise.

(21) The Government will not be bound by any present or future state laws (a) providing for valuation, appraisal, or exemption of the Property; (b) prohibiting or restricting an action for deficiency judgment or limiting the judgment amount which may be awarded; (c) prescribing any statute of limitations; (d) allowing any right of redemption or possession following any foreclosure sale, or (e) limiting the conditions the Government may impose by regulation as a condition of approving a transfer of the Encumbered Property to a new borrower. **THE BORROWER WAIVES THE BENEFIT OF ANY SUCH STATE LAWS.**

(22) Should the Borrower DEFAULT on any of its obligations under any Loan Instrument; breach any of its warranties or covenants under any Loan Instrument; merge, dissolve, be declared bankrupt or insolvent; or make an assignment for the benefit of creditors, the Government may without notice (a) accelerate the entire indebtedness secured by this instrument by declaring it immediately due and payable; (b) charge the Borrower's account for any reasonable expenses which the Government may pay or incur to maintain and repair the Encumbered Property; (c) operate or rent the Encumbered Property and apply any moneys received to the Borrower's account; (d) have a receiver appointed for the Encumbered Property who may exercise the usual powers of receivers in similar cases; and (e) authorize the Trustee to foreclose this and any other Loan Instrument and sell the Encumbered Property as a business unit without any requirement for marshalling of assets and without regard to whether the Encumbered Property is realty or personalty.

(23) At the request of the Government, the Trustee may foreclose this instrument by advertisement and sale of the Encumbered Property as provided by law, for cash or secured credit as the Government may desire. Except to the extent it may be required by law, personal notice of sale need not be served on the Borrower. The sale may be adjourned from time to time without notice other than oral proclamation at the time and place originally appointed for the sale and written correction made on the posted notices. At the sale the Government and its agents may bid and purchase as a stranger. The Trustee's execution of a conveyance of all or part of the Encumbered Property to any purchaser at foreclosure sale shall be conclusive evidence that the sale was conducted in accordance with the provisions of the Loan Instruments, either by the Trustee personally or through his duly authorized delegates. Any Trustee may act.

(24) Proceeds of a foreclosure sale pursuant to any Loan Instrument shall be applied in the following order to the payment of: (a) costs and expenses incident to enforcing or complying with the provisions hereof; (b) all taxes, levies, and assessments, with costs and interests if they have priority over the lien of this Deed of Trust, including the due pro rata thereof for the current year; (c) any prior liens required by law or competent court to be paid; (d) all indebtedness to the Government secured

by this instrument; (e) inferior liens of record required by law or a competent court to be paid; and (f) any balance to Borrower.

(25) If the Government is the successful bidder at a foreclosure sale under any Loan Instrument, any portion of the purchase price not owed to a third party may be paid by crediting that amount on any debts of the Borrower which are owed to or insured by the Government.

(26) The rights and remedies provided in this instrument are cumulative and shall be in addition to every other remedy now or hereafter existing at law, in equity, by statute or by regulation.

(27) A waiver, amendment, release or modification of this instrument may be effected only by a writing which has been duly executed by the Government and shall not be established by conduct, custom or course of dealing.

(28) This instrument shall be subject to the present regulations of United States of America, acting by and through the Rural Housing Service, an agency of the United States Department of Agriculture, and to its future regulations not inconsistent with the express provisions of this instrument, and shall be construed and enforced in accordance with applicable federal law. In all other respects, this instrument shall be governed by the laws of the State in which it is recorded.

(29) Default under this instrument shall constitute a default under any other instruments of the Borrower held or insured by the Government and default under any other instrument constitutes default under this instrument.

(30) The invalidity or unenforceability of any portion of this instrument shall not effect the validity or enforceability of the remaining portion of this instrument.

(31) Notices to the Borrower shall be sent to its address as shown on the first page of this instrument. Notices to the Government shall be addressed to the United States of America, Rural Housing Service, \_\_\_\_\_. Notices shall be sent by certified mail (postage prepaid) unless otherwise required by law. The Government and the Borrower may designate any further or different addresses to which subsequent notices shall be sent.

(32) In the event that the Government at its option desires to extend additional credit to the Borrower from time to time, then the lien of this instrument shall automatically be extended to cover such indebtedness. The Borrower shall evidence its consent by the execution and delivery of a Loan Resolution on Form RD 1942-9 and an additional note on Form RD 440-22, or their equivalents. In the event that at the time of the additional borrowing, the laws of the state in which this instrument is recorded do not permit such future advances to enjoy the lien of this instrument, then the Borrower shall execute and deliver an additional deed of trust. Future deeds of trust may be in statutory form, with such additional provisions, either expressed or incorporated by reference to this deed of trust, as the Government and the Borrower agree upon.

Nothing contained in this section shall be construed to require the Government to evidence and secure obligatory advances under the Note or protective advances under this instrument with additional notes and deeds of trust.

IN WITNESS WHEREOF, the Borrower has caused this Deed of Trust to be executed by its President and its corporate seal to be affixed and attested by its Secretary, all as of the date first written above.

(CORPORATE SEAL)

\_\_\_\_\_  
(Borrower)

ATTEST: \_\_\_\_\_

By: \_\_\_\_\_

(Title) \_\_\_\_\_

(Title) \_\_\_\_\_

**FOR ALL FINANCING STATEMENTS FILED WITH THE STATE CORPORATION COMMISSION AND THE COUNTY, USE THE FOLLOWING STATEMENT AS A DESCRIPTION:**

All accounts, equipment, fixtures, and general intangibles.

Do not add any other description, listing, or language. Do not delete any part of the statement, even though it may not apply.

ACKNOWLEDGEMENT

COMMONWEALTH OF VIRGINIA     )  
  )ss:  
COUNTY OF                                 )

I, \_\_\_\_\_, a notary public in and for the state and county aforesaid, do certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me appeared \_\_\_\_\_ and \_\_\_\_\_ to me personally known, who being by me duly sworn, did acknowledge before me in my county aforesaid that they are the President and Secretary of \_\_\_\_\_ and that the seal affixed to the foregoing Deed of Trust is the corporate seal of the corporation, and that the Deed of Trust was signed and sealed by them on behalf of the corporation by authority of its governing board, and they acknowledged the Deed of Trust to be the free act and deed of the corporation.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(NOTARIAL SEAL)

My term of office as Notary expires \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

STATE OF VIRGINIA

COUNTY OF \_\_\_\_\_

In the Clerk's office of \_\_\_\_\_ County, at \_\_\_\_\_ M., on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, this deed was presented properly stamped and together with the certificate annexed, admitted to record.

Teste \_\_\_\_\_  
  , Clerk

USDA-RUS-VA  
VA Form RD 440-4  
(Rev. 09-28-01)

## SECURITY AGREEMENT

I. THIS SECURITY AGREEMENT, dated \_\_\_\_\_, 19\_\_, is made between the United States of America, acting by and through the Rural Housing Service, an agency of the United States Department of Agriculture, (herein called Secured Party) and \_\_\_\_\_ (herein called Debtor), whose mailing address is \_\_\_\_\_.

II. WHEREAS Debtor is justly indebted to Secured Party as evidenced by one or more certain promissory note(s) or other instrument(s), and in the future may incur additional indebtedness to Secured Party which will also be evidenced by one or more promissory note(s) or other instrument(s), all of which are herein called "note," which has been executed by Debtor, is payable to the order of Secured Party, and authorizes acceleration of the entire indebtedness at the option of Secured Party upon any default by Debtor; and

The note evidences a loan to Debtor, and Secured Party, at any time, may assign the note and insure the payment thereof to any extent authorized by the Consolidated Farm and Rural Development Act or any other act administered by the United States of America, acting by and through the Rural Housing Service, an agency of the United States Department of Agriculture; and

It is the purpose and intent of this instrument that, among other things, at all times when the note is held by Secured Party, or in the event Secured Party should assign this instrument without insurance of the note, this instrument shall secure payment of the note; but when the note is held by an insured holder, this instrument shall not secure payment of the note or attach to the debt evidenced thereby, but as to the note and such debt shall constitute an indemnity security agreement to secure Secured Party against loss under its insurance contract by reason of any default by Debtor; and

NOW THEREFORE, in consideration of said loan(s) and (a) at all times when the note is held by Secured Party, or in the event Secured Party should assign this instrument without insurance of the payment of the note, to secure the prompt payment of all existing and future indebtedness and liabilities of Debtor to Secured Party and of all renewals and extensions thereof and any additional loans or future advances to Debtor heretofore or hereafter made or insured by Secured Party under the then existing provisions of the Consolidated Farm and Rural Development Act or any other act administered by the United States of America, acting by and through the Rural Housing Service, an agency of the United States Department of Agriculture, all with interest; (b) at all times when the note is held by an insured holder, to secure performance of Debtor's agreement herein to indemnify and save harmless Secured Party against loss under its insurance contract by reason of any default by Debtor; (c) in any event and at all times to secure the prompt payment of all advances and expenditures made by Secured Party, with interest, as hereinafter described, and the performance of every



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**Exhibit D**  
**Attachment 3, Page 2**

covenant and agreement of Debtor contained herein or in any supplementary agreement:

DEBTOR HEREBY GRANTS to Secured Party a security interest in Debtor's interest in the following collateral, including the proceeds and products thereof:

Item 1. All (equipment) (and fixtures) with all replacements, substitutions, additions, and accessions financed with (loan) (and grant) funds, including, but not limited to, the following:

**INSERT SPECIFIC DESCRIPTIONS OR TYPE "SEE ATTACHED" AND INCLUDE AN ATTACHMENT WITH THE SPECIFIC DESCRIPTIONS**

Item 2. All debtor's accounts and general intangibles.

**III. DEBTOR WARRANTS, COVENANTS, AND AGREES THAT;**

- A. Debtor is the absolute and exclusive owner of the above-described collateral, and such collateral is free from all liens, encumbrances, security, and other interests except (1) any existing liens, encumbrances, security, or other interests in favor of Secured Party which shall remain in full force and effect; and (2) other liens, encumbrances, security, or other interests, as follows:

and Debtor will defend the collateral against the claims and demands of all other persons. Reference to the above liens, encumbrances, security, and other interests is for warranty purposes only and does not indicate their priority.

- B. Statements contained in Debtor's loan application(s) are true and correct; and Debtor will (1) use the loan funds for the purposes for which they were or are advanced; (2) comply with management plans as may be agreed upon from time to time by Debtor and Secured Party; (3) care for and maintain the collateral in a good and husband-like manner; (4) insure the collateral in such amounts and manner as may be required by Secured Party, and if Debtor fails to do so, Secured Party, at its option, may procure such insurance; (5) permit Secured Party to inspect the collateral at any reasonable time; (6) not abandon the collateral or encumber, conceal, remove, sell, or otherwise dispose of it or of any interest therein, or permit others to do so, without the prior written consent of Secured Party; and (7) not permit the collateral to be levied upon, injured, or destroyed, or its value to be impaired.
- C. Debtor will pay promptly when due all (1) indebtedness evidenced by the note and any indebtedness to Secured Party secured hereby; (2) rents, taxes, insurance premiums, levies, assessments, liens, and other encumbrances, and costs of lien searches and maintenance and other charges now or hereafter attaching to, levied on, or otherwise pertaining to the collateral or this security interest; (3) filing or recording fees for instruments necessary to perfect, continue, service, or terminate this security interest; and (4) fees and other charges now or hereafter required by

regulations of the United States of America, acting by and through the Rural Housing Service, an agency of the United States Department of Agriculture. At all times when the note is held by an insured holder, Debtor shall continue to make payments on the note to Secured Party, as collection agent for the holder.

- D. If the note is insured by Secured Party, Debtor will indemnify and save harmless Secured Party against any loss by reason of any default by Debtor.
- E. At all times when the note is held by an insured holder, any amount due and unpaid under the terms of the note to which the holder is entitled may be paid by Secured Party to the holder of the note for the account of Debtor. Any amount due and unpaid under the terms of the note, whether it is held by Secured Party or by an insured holder, may be credited by Secured Party on the note and thereupon shall constitute an advance by Secured Party for the account of Debtor. Any advance by Secured Party as described in this paragraph shall bear interest at the note rate from the date on which the amount of the advance was due to the date of payment to Secured Party, provided that Borrower shall be required to pay interest on only the principal portion of such advance unless otherwise provided in the regulations of the United States of America, acting by and through the Rural Housing Service, an agency of the United States Department of Agriculture.
- F. Whether or not the note is insured by Secured Party, Secured Party may at any time pay any other amounts required herein to be paid by Debtor and not paid when due, including any costs and expenses for the preservation or protection of the collateral or this security interest, as advances for the account of Debtor. All such advances shall bear interest at the rate borne by the note which has the highest interest rate.
- G. All advances by Secured Party as described in this instrument, with interest, shall be immediately due and payable by Debtor to Secured Party without demand at the place designated in the latest note and shall be secured hereby. No such advance by Secured Party shall relieve Debtor from breach of the covenant to pay. Any payment made by Debtor may be applied on the note or any indebtedness to Secured Party secured hereby, in any order Secured Party determines.
- H. In order to secure or better secure the aforesaid obligations or indebtedness, Debtor will execute and deliver to Secured Party at any time, upon demand, such additional security instruments on such real and personal property as Secured Party may require. Debtor authorizes Secured Party to file a financing statement prior to disbursement and to file amendments and continuations of the financing statement.

**IV. IT IS FURTHER AGREED THAT:**

- A. Until default, Debtor may retain possession of the collateral.
- B. Default shall exist hereunder if Debtor fails to perform or discharge any obligation or to pay promptly any indebtedness hereby secured or to observe or perform any covenants or agreements herein or in any supplementary agreement contained, or if any of Debtor's representations or warranties herein prove false or misleading or upon the death or incompetency of the parties named as Debtor, or upon the

**Virginia Instruction 1942-A**  
**Exhibit D**  
**Attachment 3, Page 4**

bankruptcy or insolvency of anyone of the parties named as Debtor. Upon any such default.

1. Secured Party, at its option, with or without notice as permitted by law, may (a) declare the unpaid balance on the note and any indebtedness secured hereby immediately due and payable; (b) enter upon the premises and take possession of, cultivate, and harvest crops, repair, improve, use, and operate the collateral or make equipment unusable for the purpose of protecting or preserving the collateral or this lien, or preparing or processing the collateral for sale; and (c) exercise any sale or other rights accorded by law.
  2. Debtor hereby (a) agrees to assemble the collateral and make it available to Secured Party at such time(s) and place(s) as designated by Secured Party; and (b) waives all notices, exemptions, compulsory disposition, and redemption rights.
  3. A default shall exist under any other security instrument held or insured by Secured Party and executed or assumed by Debtor on real or personal property. Likewise, default under any such other security instrument shall constitute default hereunder.
- C. Proceeds from disposition of collateral shall be applied first on expenses of retaking, holding, preparing for sale, selling and the like, and for payment of reasonable attorneys' fees and legal expenses incurred by Secured Party; second to the satisfaction of prior security interests or liens to the extent required by law and in accordance with current regulations of the United States of America, acting by and through the Rural Housing Service, an agency of the United States Department of Agriculture; third to the satisfaction of indebtedness secured hereby; fourth to the satisfaction of subordinate security interests to the extent required by law; fifth to any other obligations of Debtor owing to or insured by Secured Party; and sixth to Debtor. Any proceeds collected under insurance policies shall be applied first on advances and expenditures made by Secured Party, with interest, as herein above provided; second on the debt evidenced by the note, unless Secured Party consents in writing to their use by Debtor under Secured Party's direction for repair or replacement of the collateral; third on any other obligation of Debtor owing to or insured by Secured Party; and any balance shall be paid to Debtor unless otherwise provided in the insurance policies. Debtor will be liable for any deficiency owed to Secured Party after such disposition of proceeds of the collateral and insurance.
- D. It is the intent of Debtor and Secured Party that to the extent permitted by law and for the purpose of this Agreement, no collateral covered hereby is or shall become realty or accessioned to other goods.
- E. This Agreement is subject to the present regulations of the Secured Party and to its future regulations not inconsistent with the express provisions hereof.
- F. If any provision of this Agreement is held invalid or unenforceable, it shall not affect any other provisions hereof, but this Agreement shall be construed as if it had never contained such invalid or unenforceable provision.

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Exhibit D  
Attachment 3, Page 5**

- G. The rights and privileges of Secured Party under this Agreement shall insure to the benefit of its successors and assigns. All covenants, warranties, representations, and agreements of Debtor contained in this Agreement are joint and several and shall bind personal representatives, heirs, successors, and assigns.
- H. If at any time it shall appear to Secured Party that Debtor may be able to obtain a loan from a private credit source, at reasonable rates and terms for loans for similar purposes and periods of time, Debtor will, upon Secured Party's request, apply for and accept such loan in sufficient amount to pay the note and any indebtedness secured hereby.
- I. Secured Party shall have the sole and exclusive rights as the secured party hereunder, including, but not limited to, the power to grant or issue any consent, release, subordination, continuation statement, or termination statement, and no insured holder shall have any right, title, or interest in or to the security interest created by this agreement or any benefits hereof.
- J. SECURED PARTY HAS INFORMED DEBTOR THAT DISPOSAL OF PROPERTY COVERED BY THIS SECURITY AGREEMENT WITHOUT THE CONSENT OF SECURED PARTY, OR MAKING ANY FALSE STATEMENT IN THIS SECURITY AGREEMENT, OR ANY OTHER LOAN DOCUMENT, MAY CONSTITUTE A VIOLATION OF FEDERAL CRIMINAL LAW.
- K. Failure by the Secured Party to exercise any right, whether once or often, shall not be construed as a waiver of any covenant or condition or of the breach thereof. Such failure shall also not affect the exercise of such right without notice upon any subsequent breach of the same or any other covenant or condition.

Attest: \_\_\_\_\_ (SEAL)

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

(Legal Opinion to be Retyped on Local Counsel's Letterhead)

\_\_\_\_\_  
(Date)

United States of America  
Program Director, Rural Housing Service

\_\_\_\_\_  
(City) (State) (Zip)

Dear Sir:

As counsel to \_\_\_\_\_ (the Borrower) in connection with the delivery of its Promissory Note (the Note) in the principal amount of \$\_\_\_\_\_ dated of even date herewith, I/we have examined:

1. The Articles of Incorporation and Bylaws of the Borrower.
2. The Resolution of the members of the Borrower adopted on \_\_\_\_\_ on Form RD 1942-8, authorizing the construction, acquisition, and financing of a \_\_\_\_\_ facility (the Facility).
3. The Resolution of the governing body of the Borrower adopted on \_\_\_\_\_, on Form RD 1942-9, authorizing the construction, acquisition, and financing of the Facility and executed as a Security Agreement (the Security Agreement) between the Borrower and the United States of America (the Government).
4. The Financing Statements from Borrower to the Government (the Financing Statements).
5. Deed of Trust between the Borrower and the Government, dated of even date herewith (the Deed of Trust).
6. Such other materials, including relevant provisions of the constitution and the laws of this State as I/we have deemed pertinent as a basis for rendering the opinions hereinafter set forth.

Based on the foregoing examinations, I am/we are of the opinion and advise you that:

- a. The Borrower has been duly incorporated and it is validly existing under the laws of this State as a non-profit corporation and has full power and authority to execute and deliver the Note, the Security Agreement, the Financing Statement, and the Deed of Trust (hereinafter collectively referred to as the "Loan Instruments").
- b. The Loan Instruments were all duly authorized, executed and delivered, and constitute the valid and legally binding obligations of the Borrower and (\* when

- recorded will) collectively create a valid first lien upon, or valid first security interest in favor of the Government in, the security covered thereby, and are enforceable in accordance with their terms, except to the extent that the enforceability (but not the validity) thereof may be limited by laws of bankruptcy, insolvency, or other laws generally affecting creditors' rights.
- c. The execution and delivery of the Loan Instruments and compliance with the provisions thereof under the circumstances contemplated thereby did not, do not and will not in any material respect conflict with or constitute on the part of the Borrower a breach of or default under any contract or agreement or other instrument to which the Borrower is a party, or any existing law, regulations, Court order, or consent device to which the Borrower is subject.
  - d. All necessary governmental approvals with respect to the acquisition, construction and operation of the Facility have been obtained.
  - e. I/we have no knowledge of any defect in the title of the Borrower to the property described in the Loan Instruments.
  - f. To the best of my/our knowledge, having made due inquiry, there is no action, suit, proceeding or investigation, at law or in equity before or by any court, public board or body, pending or threatened against or affecting the Borrower or the Facility, wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated by or the validity of any of the Loan Instruments or any related proceedings.

Sincerely,

\* Optional language - if used, the attorney must follow up this letter with another which states the documents have been recorded and the Government does in fact have a valid first lien.

CERTIFICATION OF LOAN CLOSING OFFICIAL

I hereby certify all the provisions of the closing instructions as outlined in Virginia Instruction 1942-A (Exhibit C)(Exhibit D) for Loans (and Grants), OGC's closing instructions, RHS closing instructions, and the Letter of Conditions for \_\_\_\_\_  
(Name of Entity)  
have been fully complied with.

DATE: \_\_\_\_\_  
\_\_\_\_\_  
(Name)  
\_\_\_\_\_  
(Title)

**Virginia Instruction 1942-A**  
**Guide 1, Page 1**

**I. Introduction**

The purpose of this bulletin is to modify and supplement the information found in Rural Development Instruction 1942-A, Guide 27. It is intended that when an engineer follows these guides in the preparation of the contract document section of the specification book, the result will be acceptable to Rural Development in Virginia. When there is a conflict between this guide and Rural Development Instruction 1942-A, Guide 27, this guide will prevail.

This guide consists of the following sections-

- I. Introduction
- II. List of Contract Documents
- III. Final Payment Requirements
- IV. Project Sign

Note that the project sign is to be placed either in the plans or specifications at the engineer's discretion. The project sign is required for all Rural Development contracts in excess of \$100,000. Also, as attachments are those items listed in Section II - List of Contract Documents for Rural Development Community Facility Projects.

**II. List of Contract Documents for Rural Development Community Facility Projects**

<b><u>ITEM</u></b>	<b><u>DOCUMENT</u></b>
Advertisement or Invitation to Bid	Virginia Instruction 1942-A, Guide 1, Attachment 1
Instructions to Bidders	AIA Document A701-1997
Supplementary Instructions to Bidders	RD Instruction 1942-A, Guide 27, Attachment 2
Bid Forms	
Bid Bond	
Notice of Award	
Owner-Contractor Agreement	AIA Document A101-1997
Supplement to the Standard Form of Agreement Between Owner and Contractor	RD Instruction 1942-A, Guide 27, Attachment 3
Performance Bond	VA Instruction 1942-A, Guide 1, Attachment 2
Payment Bond for Public Bodies	VA Instruction 1942-A, Guide 1, Attachment 3
Payment Bond for Non-Profit Corporations	VA Instruction 1942-A, Guide 1, Attachment 4
General Conditions	AIA Document A201-1997
Attachment to the General Conditions of the Contract for Construction	RD Instruction 1942-A, Guide 27, Attachment 4
Federal Supplementary Conditions of the Contract for Construction	AIA Document A201/SC
Attachment to the Federal Supplementary Conditions of the Contract for Construction	RD Instruction 1942-A, Guide 27, Attachment 5



**Virginia Instruction 1942-A**  
**Guide 1, Page 2**

Compliance Statement	Form Rural Development 400-6
Notice to Prospective Subcontractors of Requirements for Certifications of Non-Segregated Facilities	
Application and Certificate for Payment	AIA Document G702-1983
Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower Tier Covered Transactions	Form AD-1048, Rural Development Instruction 1940-M
Certification for Contracts, Grants, and Loans	RD Instruction 1940-Q, Exhibit A-1
Change Order	Form RD 1924-7

**III. Final Payment Requirements**

Listed are the necessary documents required before final payment is made to contractors and/or design consultants on projects financed in whole or in part by Rural Development. Some of the items may not be applicable on each project or in all contracts of the same project. When more than one contractor is on the same project, most of the following items will be submitted for each.

1. Final change order shall be updated and reflect the changes to correlate with the as-built drawings.
2. For projects where a performance and payment bond are in effect, a "Consent of Surety as to Final Payment" is needed. When surety bonds are not provided, contractors will furnish the owner required evidence of payment in full for all materials, labor, and any other items procured under the contract. Form RD 1924-10, "Release by Claimants," and/or Form RD 1924-9, "Certificate of Contractor's Release," may be used for this purpose.
3. A statement of acceptance from VDOT stating that satisfactory repairs were made to the roadways which were disturbed during the construction period and that all expenses associated with VDOT inspections have been paid in full.
4. A statement signed by the Design Consultant stating that the work has been inspected and that the construction was completed in accordance with the approved contract documents. Exhibit E of EJCDC No. 1910-1-FA - "Notice of Acceptability of Work," should be used for this purpose.
5. A statement from the borrower indicating full acceptance of the project.

#### IV. Project Sign

For contracts exceeding \$50,000, the Contractor shall supply, erect, and maintain a project sign (Exhibits A and B) according to the specifications set forth below:

- Size: 4' x 8' x 3/4"
- Material: APA Rated A-B Grade - Exterior
- Framing: 2" x 4" nominal on four sides and center cross bracing
- Supports: 4" x 4" x 11' nominal post
- Mounting: Sign is to be mounted to the 4" x 4" post with a 3/8" minimum bolt and nut, four on each side of the sign. Each bolt is to have two washers, one between the sign and the head of the bolt and the other between the post and the nut.
- Erection: 4" x 4" posts are to set three to four feet deep into concrete 12" in diameter.
- Paint: Face: three coats outdoor enamel (sprayed)  
Rear: one coat outdoor enamel (sprayed)
- Colors: White background with black lettering except for USDA logo (green background with white lettering)
- Lettering: Silk screen enamel. Lettering sizes and positioning will be as illustrated.

Location and height of sign will be coordinated with the agency responsible for highway or street safety in the area, if any possibility exists for obstruction of traffic line of sight.

The project sign will be substantially in accordance with Exhibits A and B, placed in a prominent location, and maintained in good condition until the completion of the project.

Information for items will be supplied by the Engineer/ARCHITECT.

Cost of sign, including erection and removal, shall be included in the lump sum or unit prices bid.

## ADVERTISEMENT FOR BIDS

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Address  
  
\_\_\_\_\_

Separate sealed bids for the construction of (briefly describe nature, scope, and major elements of the work) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

will be received by \_\_\_\_\_  
at the office of \_\_\_\_\_  
\_\_\_\_\_ until \_\_\_\_\_, (Standard Time - Daylight Savings Time)  
\_\_\_\_\_ 19\_\_\_\_\_, and then at said office publicly opened and read aloud.

The contract documents may be examined at the following locations:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Copies of the contract documents may be obtained at the office of \_\_\_\_\_ located at  
\_\_\_\_\_

upon payment of \$ \_\_\_\_\_ for each set.

Any bidder upon returning the contract documents in good condition within ten (10) days of bid opening will be refunded \$\_\_\_\_\_. Any non-bidder, subcontractor, or supplier upon so returning the contract documents will be refunded \$\_\_\_\_\_.

A prebid conference will be held on \_\_\_\_\_, 199\_\_ at \_\_\_\_\_.

The procedure for withdrawal of bid shall be according to provision "(i)" contained in 11-54, Code of Virginia (1950) as amended.

If a contract is for seventy thousand dollars (\$70,000) or more, or if the total value of all construction, removal, repair, or improvements undertaken by the bidder within any twelve-month period is five hundred thousand dollars (\$500,000) or more, the bidder is required under Title 54, Chapter 11, Code of Virginia (1950) as amended, to show evidence of being licensed as a "Class A Contractor." If a contract is fifteen hundred dollars (\$1,500) or more but less than seventy thousand dollars (\$70,000), the bidder is required to show evidence of being licensed as a "Class B Contractor." The bidder shall place on the outside of the envelope containing the bid and shall place in the bid over his signature whichever of the following notations is appropriate:

"Licensed Class A Virginia Contractor No. \_\_\_\_\_"

"Licensed Class B Virginia Contractor No. \_\_\_\_\_"

\_\_\_\_\_  
Date

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS: that

\_\_\_\_\_  
(Name of Contractor)

\_\_\_\_\_  
(Address of Contractor)

a \_\_\_\_\_, hereinafter called PRINCIPAL, and  
(Corporation, Partnership, or Individual)

\_\_\_\_\_  
(Name of Surety)

\_\_\_\_\_  
(Address of Surety)

hereinafter called SURETY, are held and firmly bound unto \_\_\_\_\_

\_\_\_\_\_  
(Name of Owner)

\_\_\_\_\_  
(Address of Owner)

hereinafter called OWNER, and the United States of America acting through the Rural  
Housing Service hereinafter referred to as the GOVERNMENT in the total aggregate penal  
sum of \_\_\_\_\_

\_\_\_\_\_ (Dollars) (\$ \_\_\_\_\_) in  
lawful money of the United States, for the payment of which sum well and truly to be made,  
we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and  
severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the PRINCIPAL entered  
into a certain Agreement with the OWNER, dated the \_\_\_\_\_ day of  
\_\_\_\_\_, 19\_\_\_\_\_, a copy of which is hereto attached and made a part  
hereof for the construction of:

\_\_\_\_\_  
\_\_\_\_\_

NOW, THEREFORE, if the PRINCIPAL shall well, truly, and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said Agreement during the original term thereof, and any written extensions thereof which may be granted by the OWNER, or GOVERNMENT, with or without notice to the SURETY and during the one year guaranty period and if the PRINCIPAL shall satisfy all claims and demands incurred under such Agreement, and shall fully indemnify and save harmless the OWNER and GOVERNMENT from all costs and damages which it may suffer by reason of failure to do so, including attorney fees and other litigation or arbitration costs, and shall reimburse and repay the OWNER and GOVERNMENT all outlay and expense which the OWNER and GOVERNMENT may incur in making good any default, then this obligation shall be void, otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the liability of the PRINCIPAL and SURETY hereunder to the GOVERNMENT shall be subject to the same limitations and defenses as may be available to them against a claim hereunder by the OWNER, provided, however, that the GOVERNMENT may, at its option, perform any obligations of the OWNER required by the Agreement.

PROVIDED, FURTHER, that the said SURETY, for value received hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Agreement or work to be performed thereunder or the specifications accompanying same shall in any way affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the Agreement or to the work or to the specifications.

PROVIDED, FURTHER, that it is expressly agreed that the BOND shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the Agreement not increasing the Agreement price more than 20 percent, so as to bind the PRINCIPAL and the SURETY to the full and faithful performance of the Agreement as so amended. The term "Amendment," wherever used in this BOND, and whether referring to this BOND, the Agreement, or the Loan Documents shall include any alteration, addition, extension, or modification of any character whatsoever.

PROVIDED, FURTHER, that no final settlement between the OWNER or GOVERNMENT and the PRINCIPAL shall abridge the right of the other beneficiary hereunder, whose claim may be unsatisfied. The OWNER and GOVERNMENT are the only beneficiaries hereunder.

IN WITNESS WHEREOF, this instrument is executed in \_\_\_\_\_ counterparts, each one  
(Number)  
of which shall be deemed an original, this the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

ATTEST:

\_\_\_\_\_  
PRINCIPAL

\_\_\_\_\_  
(PRINCIPAL) Secretary

By \_\_\_\_\_

\_\_\_\_\_  
(Witness as to PRINCIPAL)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
SURETY

ATTEST:

\_\_\_\_\_  
Witness to SURETY

BY \_\_\_\_\_  
Attorney-in-Fact

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Address)

NOTE: Date of BOND must not be prior to date of Agreement.

If CONTRACTOR is partnership, all partners should execute BOND. IMPORTANT: SURETY companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the Commonwealth of Virginia.



PAYMENT BOND FOR PUBLIC BODIES

KNOW ALL PERSONS BY THESE PRESENTS: That

\_\_\_\_\_  
(Name of Contractor)

\_\_\_\_\_  
(Address of Contractor)

a \_\_\_\_\_, hereinafter called PRINCIPAL and  
(Corporation, Partnership, or Individual)

\_\_\_\_\_  
(Name of Surety)

hereinafter called SURETY, are held and firmly bound unto \_\_\_\_\_

\_\_\_\_\_  
(Name of Owner)

\_\_\_\_\_  
(Address of Owner)

hereinafter called OWNER and the United States of America acting through the Rural Housing Service hereinafter referred to as GOVERNMENT, and unto all persons, firms, and corporations who or which may furnish labor, or who furnish materials to perform as described under the Agreement and to their successors and assigns in the total aggregate penal sum of \_\_\_\_\_

\_\_\_\_\_ Dollars (\$) in lawful money of the United States, for the payment of which sum well and truly be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the PRINCIPAL entered into a certain Agreement with the OWNER, dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, a copy of which is hereto attached and made a part hereof for the construction of:

\_\_\_\_\_  
\_\_\_\_\_

The purpose of this bond is to insure the prompt payment by the Principal of Principal's financial obligations under the Contract Documents.

NOW, THEREFORE, if the PRINCIPAL shall promptly make payment to all persons, firms, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such Agreement, and any authorized extensions or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and for all labor cost incurred in such work including that by a Subcontractor, and to any mechanic or materialman lienholder whether it acquires its lien by operation of State or Federal law, then this obligation shall be void, otherwise to remain in full force and effect.

PROVIDED, that beneficiaries or claimants hereunder shall be limited to the Subcontractors, Suppliers, and persons, firms, and corporations having a direct contact with the PRINCIPAL or its Subcontractors.

PROVIDED, FURTHER, that the said SURETY for value received hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Agreement or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of this Agreement or to the work or to the specifications.

PROVIDED, HOWEVER, that this BOND is executed pursuant to the provisions of Sections 11-58 and 11-60 of the Code of Virginia as amended, not otherwise in conflict with any legal provisions of the Contract Documents, and all liabilities on this BOND to all such claimants shall be determined in accordance with the provisions of said Sections to the same extent as if they were copied at length herein.

PROVIDED, FURTHER, that it is expressly agreed that this BOND shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the Agreement not increasing the Agreement price more than 20 percent, so as to bind the PRINCIPAL and the SURETY to the full and faithful performance of the Agreement as so amended. The term "Amendment," wherever used in this BOND and whether referring to this BOND, the Agreement, or the loan documents shall include any alteration, addition, extension, or modification of any character whatsoever.

PROVIDED, FURTHER, that no final settlement between the OWNER or GOVERNMENT and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

WITNESS, WHEREOF, this instrument is executed in \_\_\_\_\_ counterparts, each of which  
(Number)

shall be deemed original, this the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

ATTEST:

_____	_____
(PRINCIPAL) Secretary	PRINCIPAL

(SEAL)

	By _____
	_____
	(Address)

_____	_____
Witness as to PRINCIPAL	
_____	
(Address)	

_____	_____
	SURETY

ATTEST:

_____	By _____
Witness as to SURETY	Attorney-in-Fact
_____	_____
(Address)	(Address)

NOTE: Date of BOND must not be prior to date of Agreement.

If CONTRACTOR is partnership, all partners should execute BOND. IMPORTANT: SURETY companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the Commonwealth of Virginia.

PAYMENT BOND FOR NON-PROFIT CORPORATIONS

KNOW ALL PERSONS BY THESE PRESENTS: That

\_\_\_\_\_  
(Name of Contractor)

\_\_\_\_\_  
(Address of Contractor)

a \_\_\_\_\_, hereinafter called PRINCIPAL and  
(Corporation, Partnership, or Individual)

\_\_\_\_\_  
(Name of Surety)

hereinafter called SURETY, are held and firmly bound unto \_\_\_\_\_

\_\_\_\_\_  
(Name of Owner)

\_\_\_\_\_  
(Address of Owner)

hereinafter called OWNER and the United States of America acting through the Rural Housing Service hereinafter referred to as GOVERNMENT, and unto all persons, firms, and corporations who or which may furnish labor, or who furnish materials to perform as described under the contract and to their successors and assigns in the total aggregate penal sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) in lawful money of the United States, for the payment of which sum well and truly be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the PRINCIPAL entered into a certain Agreement with the OWNER, dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, a copy of which is hereto attached and made a part hereof for the construction of:

\_\_\_\_\_

\_\_\_\_\_

The purpose of this bond is to insure the prompt payment by the Principal of Principal's financial obligations under the Contract Documents.

NOW, THEREFORE, if the PRINCIPAL shall promptly make payment to all persons, firms, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such Agreement, and any authorized extensions or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and for all labor cost incurred in such work including that by a Subcontractor, Suppliers, and to any mechanic or materialman lienholder whether it acquires its lien by operation of State or Federal law, then this obligation shall be void, otherwise to remain in full force and effect.

PROVIDED, that beneficiaries or claimants hereunder shall be limited to the Subcontractors, and persons, firms, and corporations having a direct contact with the PRINCIPAL or its Subcontractors.

PROVIDED, FURTHER, that the said SURETY for value received hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Agreement or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of this Agreement or to the work or to the specifications.

PROVIDED, FURTHER, that no suit or action shall be commenced hereunder by any claimant: (a) Unless claimant, other than one having a direct Agreement with the PRINCIPAL (or with the GOVERNMENT in the event the GOVERNMENT is performing the obligations of the OWNER), shall have given written notice to any two of the following: The PRINCIPAL, the OWNER, or the SURETY above named within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the PRINCIPAL, OWNER, or SURETY, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer. (b) After the expiration of one (1) year following the date of which the PRINCIPAL ceased work on said Agreement, it being understood, however, that if any limitation embodied in the BOND is prohibited by any law controlling the construction hereof, such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

PROVIDED, FURTHER, that it is expressly agreed that this BOND shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the Agreement not increasing the Agreement price more than 20 percent, so as to bind the PRINCIPAL and the SURETY to the full and faithful performance of the Agreement as so amended. The term "Amendment," wherever used in this BOND and whether referring to this BOND, the Agreement, or the loan documents shall include any alteration, addition, extension, or modification of any character whatsoever.

PROVIDED, FURTHER, that no final settlement between the OWNER or GOVERNMENT and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

WITNESS, WHEREOF, this instrument is executed in \_\_\_\_\_ counterparts, each of  
(Number)

which shall be deemed an original, this the \_\_\_\_\_ day of \_\_\_\_\_.

ATTEST:

\_\_\_\_\_  
PRINCIPAL

\_\_\_\_\_  
(PRINCIPAL) Secretary

(SEAL)

By \_\_\_\_\_

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
Witness as to PRINCIPAL

\_\_\_\_\_  
(Address)

---

SURETY

ATTEST:

---

Witness as to SURETY

By \_\_\_\_\_  
Attorney-in-Fact

---

(Address)

---

(Address)

NOTE: Date of BOND must not be prior to date of Agreement.

If CONTRACTOR is partnership, all partners should execute BOND. IMPORTANT: SURETY companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the Commonwealth of Virginia.



Position 6

**CONSTRUCTION CONTRACT**

State \_\_\_\_\_

County \_\_\_\_\_

This Contract, made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_,  
by \_\_\_\_\_ of \_\_\_\_\_  
(hereinafter called the "Owner"), and \_\_\_\_\_ of \_\_\_\_\_  
\_\_\_\_\_ (hereinafter called the "Contractor").

WITNESSETH that the parties hereto agree as follows:

(A) The Contractor will furnish materials and perform the work for:

for the consideration of \_\_\_\_\_ dollars (\$ \_\_\_\_\_),  
in accordance with the "General Conditions" shown in this contract and the specifications and the drawings  
as follows:

(B) The Contractor will start work by \_\_\_\_\_, \_\_\_\_\_, and will complete  
the work by \_\_\_\_\_, \_\_\_\_\_ (See paragraph III of General Conditions).

(C) The Owner will make payments as follows: (Check ☐ proper payment clause and effectively  
xxxxxxx out the clause that is not applicable.)

☐ 1. ONE LUMP SUM will be made for the whole contract, upon acceptance by the Owner and Rural  
Development, of all work required hereunder and compliance by the Contractor with all the  
terms and conditions of this contract.

☐ 2. PARTIAL PAYMENTS IN THE AMOUNT OF 95 PERCENT of the value of the work in place  
and of the value of the materials suitably stored at the site (less the aggregate of previous  
payments) will be made at intervals of \_\_\_\_\_. The value of the  
work and materials in place or on site shall be as estimated by the Contractor and approved by  
the Owner and Rural Development. Upon acceptance by the Owner and Rural Development  
of all work required hereunder, and compliance by the Contractor with all terms and conditions  
of this contract, the amount due the Contractor will be paid.

(D) The items described below (the Notice of Requirement for Affirmative Action to Ensure Equal  
Employment Opportunity required by Executive Order 11246, the Equal Opportunity Clause  
published at 41 CFR 60-1.4 (a) and (b), and the Standard Federal Equal Employment Opportunity  
Construction Contract Specifications required by Executive Order 11246) apply, during the  
performance of this contract, if the contract exceeds \$10,000 (This also includes subsequent loans  
and grants, or contract change orders made during the construction period of the original contract,

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**Guide 2**  
**Page 2 of 4**

which will cause the total to exceed \$10,000.) to the following: (1) All Contractors or Subcontractors who hold any Federal or federally assisted construction contract, (2) All grants, contracts and loans (direct, insured, or guaranteed) let by Rural Development, and (3) All construction work performed by construction Contractors and Subcontractors for Federal nonconstruction Contractors and Subcontractors if the construction work is necessary in whole or in part to the performance of a nonconstruction contract or subcontract. The items are applicable to all of a Contractor's or Subcontractor's employees who are engaged in "on site" construction including those construction employees who work on a non-federal or non-federally assisted construction site. The items, however, will not pre-empt state and local government regulations of the construction industry, and will not relieve Contractors and Subcontractors of the obligations they may have under other affirmative action or equal opportunity programs.

The goal for WOMEN for all trades is 6.9%.

The goal for MINORITIES for all trades is \_\_\_\_\_.

IN WITNESS WHEREOF, the parties hereto have executed this contract as of the date first above written.

\_\_\_\_\_  
(Contractor)

\_\_\_\_\_  
(Owner)

**GENERAL CONDITIONS**

- I. CHANGES IN WORK.-The Owner may at any time, with the approval of the official designated by Rural Development (hereinafter called the Representative), make changes in the drawings and specifications, within the general scope thereof. If such changes cause an increase or decrease in the amount due under this contract or in the time required for its performance, an equitable adjustment will be made, and this contract will be modified accordingly by a "Contract Change Order", Form RD 1924-7. No charge for any extra work or material will be allowed unless the same has been ordered on such contract change order by the Owner with the approval of the Representative, and the price therefor stated in the order.
- II. INSPECTION OF WORK.-All materials and workmanship will be subject to inspection, examination, and test, by the Representative and the Owner's Design Consultant, who will have the right to reject defective material and workmanship and or require its correction.
- III. COMPLETION OF WORK.-If the Contractor refuses or fails to complete the work within the time specified in paragraph B of this contract, or any extension thereof, the Owner may, with the approval of the Representative, terminate the Contractor's right to proceed. In such event the Owner may take over the work and prosecute the same to completion by contract or otherwise and the Contractor will be liable for any excess cost occasioned the Owner thereby: and the Owner may take possession of and utilize in completing the work such materials and equipment as may be on the site of the work and necessary therefor. If the Owner does not terminate the right of the Contractor to proceed, the Contractor will continue the work, in which event, actual damages for delay will be impossible to determine, and, in lieu thereof, the Contractor may be required to pay to the Owner the sum of \$\_\_\_\_\_ as liquidated damages for each calendar day of delay, and the Contractor will be liable for the amount thereof: *Provided, however,* that the right of the Contractor to proceed will not be terminated because of delays in

**Virginia Instruction 1942-A**  
**Guide 2**  
**Page 3 of 4**

the completion of the completion of the work due to unforeseeable causes beyond the Contractor's control and without Contractor's fault or negligence.

- IV. RELEASES.-Prior to final payment, the Contractor will submit evidence that all payrolls, material bills, and other indebtedness connected with the work have been paid as required by the Owner or the Representative.
- V. OBLIGATION TO DISCHARGE LIENS.-Acceptance by the Owner and the Representative of the completed work performed by the Contractor and payment therefor by the Owner will not relieve the Contractor of obligation to the Owner (which obligation is hereby acknowledged) to discharge any and all liens for the benefit of Subcontractors, laborers, material-person, or any other persons performing labor upon the work or furnishing material or machinery for the work covered by this contract, which have attached to or may subsequently attach to the property, or interest of the Owner.
- VI. NOTICES AND APPROVAL IN WRITING.-Any notice, consent, or other act to be given or done hereunder will be valid only if in writing.
- VII. ADDITIONAL REQUIREMENTS.-The Contractor, in the performance of this contract, will comply with all applicable Equal Opportunity requirements. The provisions of RD Instruction 1901-F concerning the protection of historical and archaeological properties and the provisions under either RD Instruction 1940-G or RUS Instruction 1794 (as pertinent) concerning environmental requirements apply. The Contractor understands that should any archaeological resources be discovered during the construction process, the Contractor will notify the Owner and cease further construction activity that could affect the resource until the Owner has consulted with Rural Development and the Contractor is informed of any steps to be taken or told to proceed with construction.
- VIII. CLEANING UP.-The Contractor shall keep the premises free from accumulation of waste material and rubbish and at the completion of the work shall remove from the premises all temporary facilities, rubbish, implements and surplus materials and leave any buildings broom-clean.
- IX. GUARANTEE.-The Contractor shall guarantee all materials and equipment furnished and work performed for a period of one (1) year from the date of completion. The Contractor warrants and guarantees for a period of one (1) year from the date of completion of the system that the completed system is free from all defects due to faulty materials or workmanship and the Contractor shall promptly make such corrections as may be necessary by reason of such defects including the repairs of any damage to other parts of the system resulting from such defects. The Owner will give notice of observed defects with reasonable promptness. In the event that the Contractor should fail to make such repairs, adjustments, or other work that may be made necessary by such defects, the Owner may do so and charge the Contractor the cost thereby incurred.
- X. ANTI-KICKBACK.-The Contractor shall comply with the Copeland Anti-Kickback Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). This act provides that each Contractor shall be prohibited from inducing, by any means, any person employed in the construction, completion or repair of public facilities, to give up any part of the compensation to which they are otherwise entitled. The Owner shall report all suspected or reported violations to Rural Development.
- XI. RECORDS.-For any contract exceeding \$10,000, the Owner, Rural Development, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books, documents, papers, and records of the Contractor which are directly pertinent to a specific Federal loan program for the purpose of making audits, examinations, excerpts, and transcriptions. Contractors are required to maintain all required records for three years after Owner makes final payment and all other pending matters are closed.
- XII. EQUAL OPPORTUNITY REQUIREMENTS.-For all contracts in excess of \$10,000, the Contractor shall comply with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR, Part 60). If the Contract exceeds \$10,000, the Contractor will execute Form RD 400-6, "Compliance Statement."

## Virginia Instruction 1942-A

### Guide 2

#### Page 4 of 4

- XIII. MISCELLANEOUS. -For all contracts in excess of \$10,000, the Contractor will execute the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions" [Form AD-1048 (1/92)].
- XIV. INSURANCE.-The Contractor shall purchase and maintain such insurance as will protect it from claims which may arise out of, or result from, the Contractor's execution of the work, whether such execution be by the Contractor, any Subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.
- XV. SUPERVISION BY CONTRACTOR.-The Contractor will supervise and direct the work. He will be solely responsible for the means, methods, techniques, sequences and procedures of construction.
- XVI. RURAL DEVELOPMENT.-As lender or insurer of funds to defray the costs of this contract, and without liability for any payments thereunder, Rural Development on behalf of the \_\_\_\_\_ hereby concurs in the award of this Contract to \_\_\_\_\_.

U.S. Department of Agriculture  
Rural Development

By \_\_\_\_\_ Title \_\_\_\_\_

Date \_\_\_\_\_

This Contract shall not be effective unless and until concurred in by the Rural Development State Director, U. S. Department of Agriculture or a delegated representative.

POSITION 1

Date of Completed Preapplication \_\_\_\_\_  
Date of Completed Application \_\_\_\_\_

PROCESSING CHECKLIST  
(Community Facilities)  
1942-A Instructions

AREA OFFICE: \_\_\_\_\_

APPLICANT: \_\_\_\_\_

COUNTY: \_\_\_\_\_

TYPE OF PROJECT: Community Building \_\_\_\_\_ Hospital \_\_\_\_\_ Other \_\_\_\_\_

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	Name	Address	Telephone
Applicant			
Contact Person			
Local Counsel			
Attorney			
Architect			
Accountant			

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## STAGE I. PREAPPLICATION

SO USE	FORMS	DOCUMENT/ACTION	FILE POS./ TYPE	REFERENCE	PREPARED BY	RETENTION PERIOD	DATE REC'D
	SF424.1 SF424.2	Preapplication for Federal Assistance	3 Project	1942.2(a)	Applicant	Indefinite	
	Memo	Notification of intent to apply for assistance	3 Project	1942.2(a)	Applicant	Indefinite	
	Letter	State intergovernmental review comments	3 Project	1942.2(a)(iii)	Applicant	Indefinite	
	N/A	Organizational Documents: a. Bylaws b. Certificate Of Incorporation and Amendments c. Articles of Incorporation and Amendments d. Certification of Existence e. Attorney's opinion regarding organization and authority	5 Project	1942.2(a)(1)(v)	Applicant	Indefinite	
	N/A	OGC Review of Organizational Documents	5 Project	1942.2(a)(1)(v)	OGC	Indefinite	
	Audit/ 442-3	Current Balance Sheet/Audit	3 Project	1942.2(a)(v)	Applicant	Indefinite	
	Letter	Certification of inability to obtain credit elsewhere (letter from applicant citing rates and terms from at least two contacts)	3 Project	1942.17(b)(3)	Applicant	Indefinite	
	Printouts/ Running Record	Current/Past Debt History with RD	3 Project	1942.2(a)(v)	A/O	Indefinite	
	N/A	RD Certification of basis for which loan is made: a. Five years successful operation b. Assured income c. Exceptional community support	3 Project	1942.17(g)(2) (iii) and 1942.17(g)(3) (iii)	A/O	Indefinite	
	N/A	Evidence of successful financial operation (history) - Five years	3 Project	1942.17(g)(2) (iii) and 1942.17(g)(3) (iii)	Applicant Attorney	Indefinite	
	N/A	Contract of Assured Income	5 Project	1942.17(g)(3)	Applicant	Indefinite	
	Guide 5	Financial Feasibility Report	6 Project	1942.17(h)(1)	Applicant Engineer/ Architect	Indefinite	
	Guides 6 through 10	Preliminary Engineering/ Architectural Report	6 Project	1942.18(c)	Engineer/ Architect	Indefinite	
	1940-Q Exh. A-1	Certification for Contracts, Grants, and Loans	3 Project	1940-Q, 1940.810	Applicant	Indefinite	
	AD-1047  Printout	(a)Debarment/Suspension Certification (b)Screenprint of Name Search on Internet	3 Project	1940-M, 1940-606(b)(1) 1940.603(e)	Applicant A/O	Indefinite	

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	Certific./ Running Record/ Memo	Interview concerning relatives working with RD (document)	3 Project	1942.1(a)	A/O	Indefinite	
	Guide 26, Part 1	Project Selection Criteria	3 Project	1942.17(c)(2) (iii)	A/O	Indefinite	
	3570-1	Project Selection Criteria (Grants)	3 Project	3570-B, 3570.67	A/O	Indefinite	
	3570-2	Worksheet for Computing Maximum Grant Assistance	2 Project	RD 3570-B, 3570.66	A/O	Indefinite	
	N/A	Eligibility determination and recommendations	3 Project	1942.2(a)(1)(i)	A/O	Indefinite	
	EJCDC or AIA Forms	Agreement for Engineering/ Architectural Services	6 Project	1942.18(b)	Engineer/ Architect	Indefinite	
	Memo	Approval of Engineering/ Architectural Agreement	4 Project	1942.4	S/O	Indefinite	
	Guide 14	Legal Services Agreement	5 Project	1942.17(l)(1)	Applicant Attorney	Indefinite	
	Memo	Approval of Legal Services Agreement	4 Project	1942.4	S/O	Indefinite	
	AD-622	Notice of Preapplication Review Action	3 Project	1942.2(a)(2)(iv)	A/O	Indefinite	

**STAGE II. APPLICATION**

SO USE	FORMS	DOCUMENT/ACTION	FILE POS./ TYPE	REFERENCE	PREPARED BY	RETENTION PERIOD	DATE REC'D
	Memo	Confirmation Letter - (Application Conference)	4 Project	1942.2(c)(3)	A/O	Indefinite	
	SF-424.1 SF-424.2	Application for Federal Assistance	3 Project	1942.2(c)	Applicant	Indefinite	
	SF-3881	Obtain Banking information from borrower and populate EFT database	2 Project	EFT Handbook	A/O	Indefinite	
	442-2	Copy of present overall budget	3 Project	1942-A	Applicant	Indefinite	
	Guide 24	Management Agreement	5 Project	1942.17(l)(3)	Applicant	Indefinite	
	N/A	Proposed Auditing/Accounting Agreements	1 Borrower	1942.17(q)(1) (ii)	Auditor Accountant	Indefinite	
	N/A	Review of Accounting/Auditing Procedures	3 Project	1942.17(r) Closing Instr.	A/O	Indefinite	
	442-20	Rights-of-Way/Easements	5 Project	1942.17(j)(4) (i)(A)	Attorney	Indefinite	
	442-21	Rights-of-Way Certificate	5 Project	1942.17(j)(4) (i)	Applicant	Indefinite	
	442-22	Opinion of Counsel Relative to Rights-of-Way	5 Project	1942.17(j)(4) (i)	Attorney	Indefinite	
	1927-9	Preliminary Title Opinion	5 Project	1942.17(j)(4) (i)(B)	Attorney	Indefinite	

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	Binder	Title Insurance Binder	5 Project	1942.17(j)(4)(i)(B)(1)	Title Co.	Indefinite	
	440-34	Deeds or Options to Purchase	5 Project	1942.17(j)(4)(i)	Applicant Attorney	Indefinite	
	3570-3	CF Grant Agreement	2 Project	RD 3570-B, 3570.80	A/O	Indefinite	
	N/A	Identification of grant funds use (File with Grant Agreement)	2 Project	RD 3570-B	A/O	Indefinite	
	Memo	Evidence of other funds with agency verification	2 Project	1942.17(n)(6)	Applicant A/O	Until receipt of all funds	
	1942-43	Project Summary with fund analysis and operating budget attached	3 Project	1942.5(c)	A/O	Indefinite	
	442-7	Operating Budget	3 Project	1942.5(c)	A/O	Indefinite	
	1942-14	Fund Analysis (revised based on bids)	2 Project	1942.5(c)(3)	A/O	Indefinite	
	N/A	Final plans, specifications and bid documents	6 Project	1942.18(e)	Engineer/Architect	Indefinite	
	N/A	Obtain interim financing	2 Project	1942.17(n)(3)	Applicant	1 year after permanent loan closing	
	Memo/Running Record/Printout	Certification that the Credit Alert Interactive Voice Repsonse System (CAIVRS) has been checked	3 Project	S/O Unnumbered Memo	Approval Official	Indefinite	

**ENVIRONMENTAL COMPLIANCE**

**(To be conducted concurrently with the Application Phase)**

**(ENVIRONMENTAL ASSESSMENT MUST BE APPROVED PRIOR TO OBLIGATION)**

SO USE	FORMS	DOCUMENT/ACTION	FILE POS./ TYPE	REFERENCE	PREPARED BY	RETENTION PERIOD	DATE REC'D
	1940-20	Request for Environmental Information	3 Env. File	1940-G	Applicant	Indefinite	
	1940-22	Categorical Exclusion	3 Env. File	1940-G	A/O	Indefinite	
	1940-21	Environmental Assessment for Class I Action	3 Env. File	1940-G; RD AN No. 3745	A/O	Indefinite	
	Exh. H	Environmental Assessment for Class II Action	3 Env. File	1940-G	A/O	Indefinite	
	N/A	Public Preliminary Notification Flood Plain/Wetland/Farmland/Cultural Resources Impacts	3 Env. File	1940-G	Applicant A/O	Indefinite	
	N/A	Public Final Notification Flood Plain/Wetland/Farmland/Cultural Resources Impacts	3 Env. File	1940-G	Applicant A/O	Indefinite	
	N/A	Finding of No Significant Impact (FONSI)	3 Env. File	1940-G	Applicant A/O	Indefinite	



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RD 2006-38	Civil Rights Impact Analysis with attachments: Census data and map of service area identifying location of proposed site, any minority or low-income community, industrial sites (such as sewage and solid waste treatment facilities and industrial parks), railroad tracks, and farms that routinely crop-dust	3 Project	RD AN No. 3776 (2006-P)	A/O	Indefinite	
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**NOTE: FONSI Notice and 15 day comment period must be over prior to issuance of Letter Of Conditions to Applicant**

**STAGE III. DOCKET**

SO USE	FORMS	DOCUMENT/ACTION	FILE POS./ TYPE	REFERENCE	PREPARED BY	RETENTION PERIOD	DATE REC'D
	Notice and Minutes	Public Notice Meeting and Minutes	3 Project	1942.17(j)(9)	Attorney	Indefinite	
	Appraisal	Appraisal of real estate and chattel property	8 Project	1942.17(g)(2) (iii)(B)(2) and 1942.17(g)(3) (iii)(B)(2)	Appraiser	Indefinite	
	Memo	Authorization given to advertise/ receive bids	6 Project	LOC	S/O A/O	Indefinite	
	Memo	Authorization to deliver LOC	3 Project	1942.5(a)(3)	S/O	Indefinite	
	LOC	Letter of Conditions	3 Project	1942.5(a)(1)	A/O	Indefinite	
	Memo	Conference to discuss Letter of Conditions	4 Project	1942.5(c)	A/O	Indefinite	
	1942-46	Letter of Intent to Meet Conditions	3 Project	1942.5(c)(3)	Applicant	Indefinite	
	1942-47	Loan Resolution	5 Project	1942.17(n)(2)	Applicant	Indefinite	
	1942-9	Loan Resolution Security Agreement	5 Project	1942.17(n)(2)	Applicant	Indefinite	
	1942-8	Resolution of Members or Stockholders	5 Project	1942.17(j)(1)	Applicant	Indefinite	
	400-1	Equal Opportunity Agreement	6 Project	1942.17(n)(2) (x)	Applicant	Indefinite	
	400-4	Assurance Agreement	3 Project	1942.17(n)(2) (x)	Attorney	Indefinite	
	1910-11	Applicant Certification - Federal Collection Policies	3 Project	1942.5(a)(1)(i)	Applicant	Indefinite	
	AD-1048	Certification Concerning Debarment, etc. (Lower Tiered Transactions where contracts equal or exceed \$25,000)	3 Project	1940-M, 1940.606(b) (1)	Applicant	Indefinite	
	AD-1049	Drug-Free Workplace Certification (Grants Only)	3 Project	1940-M, 1940.606(b) (2)	Applicant	Indefinite	

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	Memo	Minutes adopting all required Agency forms	5 Project	LOC	Applicant	Indefinite	
	N/A	Resolution accepting LOC and mitigation measures for environmental (as needed)	3 Project	Doc. of Min.	Applicant	Indefinite	
	Memo	Certified list of officers and terms of officers	5 Project	1942.17(q)(2)(ii)(A)	Applicant	Until replaced	
	1940-1	Request for obligation of funds	2 Project	1942.5(c)(3)	A/O	Indefinite	
	VA 1942-A, Exh. B, Att. 1	Lower Interest Rate Certification	2 Project	1942.17(f)(1)	Applicant	Indefinite	

**FORWARD OBLIGATING DOCUMENTS TO STATE OFFICE**

	Guides 17, 18, and 19	Construction contracts completed and executed	6 Construc. Portfolio	1942.18(e)	Engineer/Architect	3 yrs. After Bldrs. Warr. expires	
	Memo	Concurrence in Contract Awards	6 Construc. Portfolio	1942.18(e)	S/O	Indefinite	

**STAGE IV. LOAN CLOSING**

SO USE	FORMS	DOCUMENT/ACTION	FILE POS./ TYPE	REFERENCE	PREPARED BY	RETENTION PERIOD	DATE REC'D
	Memo	Request Loan Closing Instructions	4 Project	1942.6(a)	A/O	Indefinite	
	UCC-1	Financing Statements with attachment as appropriate	1 Borrower	VA 1942-A, Exhibit D	Applicant A/O	Indefinite	
	VA 440-4	Security Agreement	1 Borrower	VA 1942-A, Exhibit D	Applicant A/O	Indefinite	
	Title	DMV Lien	1 Project	LOC	A/O	Indefinite	
	440-22	Promissory Note	2 Project (Original in safe)	1942.8(b)	Applicant	As long as debt is outstanding	
	N/A	Bond	2 Project (Original in safe)	1942.8(b)	Applicant	As long as debt is outstanding	
	VA 1942-A, Exh. D, Att. 1	Deed of Trust	5 Project	LOC	A/O Applicant	Indefinite	
	1927-10	Final Title Opinion	5 Project	1942.17(j)(4)(i)(B)	Attorney	Indefinite	

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	Policy	Title Insurance Policy	5 Project	1942.17(j)(4)(i)(B)(1)	Title Co. Applicant	Indefinite	
	N/A	Certificate of Good Standing	5 Project	Closing Instructions	SCC Applicant	Indefinite	
	Memo	Certified list of officers and terms of officers as of closing date	5 Project	1942.17(q)(2)(ii)(A)	Applicant	Until replaced	
	Letter	Attorney's narrative opinion concerning permits, etc.	5 Project	LOC	Attorney	Indefinite	
	List of policies or other doc.	Evidence of insurance -- property, general liability, flood, and workmen's compensation	7 Project	1942.17(j)(3)(i)(A) and (D)	Applicant	Until replaced/ expires	
	N/A	Loan closing instructions	5 Project	1942.17(o)	S/O OGC	Indefinite	
	400-8	Compliance Review	5 Project	1942.6(c) and 1901-E	A/O	Indefinite	
	Running Record/ Printout	Certification that CAIVRS has been checked at closing	3 Project	S/O Unnumbered Memo	A/O	Indefinite	
	VA 1942-A, Exh. D, Att. 4	Attorney's certifications	5 Project	Closing Instructions	Attorney	Indefinite	
	440-24 or similar form	Fidelity bond	7 Project	1942.17(j)(3)(ii)	Applicant	Until replaced/ expires	
	N/A	Final Bond Transcript	2 Bond Portfolio	1942.19(c)	Bond Counsel	As long as debt is outstanding	

**STAGE V. CONSTRUCTION**

SO USE	FORMS	DOCUMENT/ACTION	FILE POS./ TYPE	REFERENCE	PREPARED BY	RETENTION PERIOD	DATE REC'D
	Internet Printout	Final Certification of Debarment	3 Project	1940-M, 1940.603(e)	A/O	Indefinite	
	Memo	Notice to proceed with construction	6 Project	1942-A, Guide 19, Att. 8	Applicant Engineer/ Architect	Indefinite	
	1924-16	Preconstruction Conference	6 Construc. Portfolio	1942.18(o)(1)	Engineer/ Architect	3 yrs. After Bldrs. Warr. expires	
	1924-12	Periodic Inspections	6 Construc. Portfolio	1942.18(p)(4)	A/O	Indefinite	
	1924-12 1924-18 SF-271	Prefinal Inspection and close-out documents consisting of: Inspection Report Partial Pay Estimate Outlay Report Applicant's acceptance Engineer's certification Evidence that as-built drawings are on file	6 Construc. Portfolio	1942.18(o)(5)	A/O Applicant Engineer/ Architect	Indefinite	

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		Evidence of O&M Manual Evidence of Warranty Punch List					
	1924-12	Final Inspection	6 Construc. Portfolio	1942.18(o)(6)	Applicant Engineer/ Architect A/O	Indefinite	
	Various	Certificate of Occupancy Consent of Surety Company Contractor's Release FHA 1924-9 Contractor's Final Pay Estimate Approval of Septic/Water System	6 Construc. Portfolio	Various	Applicant Engineer/ Architect	Indefinite	
	1924-12	Warranty Inspection	6 Construc. Portfolio	1942.17(r)(3) (i)	A/O	Indefinite	
	Invoices	Evidence of bills paid to date	2 Project	1942.17(p)(3)	Applicant	Indefinite	
	N/A	Request funds disbursement	2 Project	EFT/ACH	Applicant A/O	Indefinite	
	402-2	Statement of deposits and withdrawals - Monitor funds	2 Project	1942.17(p)(3)	A/O	Indefinite	

**STAGE VI. SERVICING**

SO USE	FORMS	DOCUMENT/ACTION	FILE POS./ TYPE	REFERENCE	PREPARED BY	RETENTION PERIOD	DATE REC'D
	N/A	Post Review	5 Project	1942.17(o)(4)	S/O OGC	Indefinite	
	N/A	Audits	1 Borrower	1942.17(q)(4)	Auditor	5 years	
	RD 442-2	Quarterly Management Reports	1 Project	1942.17(q)(2) (i)(B)	Applicant	3 years	
	RD 442-2	Annual Management Reports	1 Project	1942.17(q)(2) (i)(B)	Applicant	3 years	
	RD 442-4	RDM's report between 9th and 11th months of first year of operation	1 Project	1942.17(r)(1) (ii)(A)	A/O	3 years	